

1912-023 Chancery Causes: E. M. Cooper & vs. J. K. P. Legg &c
Lee Co. Mary Morris & vs. E. M. Cooper &c

Folder 1 of 2

Clark, Baker, Old School Baptist Church, Bledsoe, Barker,
Pleasant Hill Regular Baptist Church, Cates, Huff, Daugherty,
Clarkston, Noel, Duncan, Cridlin, Keokee Coal & Coke Co.,
Bailey, Palmer

CA-Contract Dispute

T-Property
Churches

- Correspondence

CIRCUIT COURT OF LEE COUNTY, VIRGINIA:

TO THE HONORABLE H.A.W.SKEEN, Judge of the Circuit Court
for Lee County, Virginia:

Humbly complaining your petitioners, E.M.Cooper, Wm.H.H.Clark and Ira Baker, Trustees of the Old School Baptist Church of Oak Gove Property, of Lee County, Virginia, respectfully state unto the Court as follows:

That by deed dated October 30th, 1877, of record in the Clerk's Office of Lee County, Virginia, Hiram W. Reece and Thomas G. Morris conveyed a certain tract or parcel of land lying and being in the Crab Orchard, in Lee County Virginia, containing five (5) acres, more or less, unto the Pleasant Hill Regular Baptist Church and the Old School Baptist Church, and the School Board of Lee County, or to the Trustees of the said two Churches and the said School Board, respectively; that the said property was conveyed to the Trustees of the said two churches and the said School Board in fee simple; that the said two churches and the said School Board have made a partition of said land by virtue of which a portion thereof was assigned and conveyed to the said School Board, and the remainder thereof, containing three and one half (3 1/2) acres is now owned by the said two churches in equal undivided ownership; but by order entered in your honors court on the 2nd day of November 1907, in an exparte proceeding on the petition of these petitioners, they were authorised to lay off a part of said property on the Northern end thereof, adjoining the public road, and also adjoining the Jesse Moore tract of land containing three fourths of an acre, and to sell and convey the same to D.E.Clakston, upon the payment by her to them of the sum of Seven Hundred and Fifty Dollars (\$750.00); but that said conveyance has not yet been made; that if said land jointly owned by said two churches, ^{was partitioned between them} it would be one and three fourth acres for each church, leaving one acre for the Old School Baptist Church after the sale to said D.E.Clark shall be

consummated;that owing to dissentions and misunderstandings between the said two churches,it has become impossible for the two churches to use and occupy said property in harmony and treat each other with the proper Christian spirit and charity;that at a meeting of the congregation of the said Old School Baptist Church,held at Oak Grove in the Crab Orchard, Lee County, Virginia, on the ____ day of _____ 190 , the said congregation passed a resolution authorising your petitioners, who are the duly appointed Trustees for the said Church, to file suit or take such legal ~~proce~~ proceedings as might be necessary to have said land partitioned between the said two churches, ~~and to have that part belonging to the Old School Baptist Church sold, and the proceeds arising from said sale to be spent in securing a sight and in erecting a new church building for its congregation;~~ that the regularly appointed Trustees of the Pleasant Hill Regular Baptist Church are J.K.P.Legg, E.M.Bledsoe, and J.W. Barker; that all the membership of said last named church are unknown to these petitioners; and that these petitioners are advised that they have a right to apply to the Court of your Honor, to have said land ^{partitioned} in accordance to the rights of the said two Churches, and that the Trustees of the Pleasant Hill Regular Baptist Church are the proper parties defendants.

The prayer of your petitioners is, therefore, that the said J.K.P.Legg, E.M.Bledsoe and J.W.Barker, Trustees of the Pleasant Hill regular Baptist Church, of the Oak Grove Property, be made parties defendants to this bill, and that they be required to answer same, but they need not answer under oath, that being specifically waived ; that proper process be issued, and all proper decrees be entered; that upon a hearing a decree be entered, partitioning said land between the said two churches in accordance to their respective rights, if the

same can be done, and if not that the whole be sold and the proceeds of sale be equally divided between the two churches, to be there after invested in other church properties for the benefit of the said two churches respectively; and that if said land can be partitioned, ^{that the same be done.} ~~that that part belonging to the Old School Baptist Church, be sold and turned over to your petitioners to be reinvested in church property for the benefit of the Old School Baptist Church, as provided in the church resolution aforesaid; and that all such other further and general relief be afforded your petitioners, ^{as} in the premises may be just and right, and they will ever pray, etc.~~

J. C. Noel. Jr.

Costs:
 Ewing Clerk \$ 11.64
 Edds. Clerk 4.30
 Yax 1.50
 R.P. 0.00
 atty 15.00
 Commrs ~~28.47~~
 Sheriff 4.75

~~\$57.23~~

Comrs - 5

-3-

same can be partitioned; that the whole be sold and the proceeds divided between the two churches

the proceeds of the sale of the property for the

E.M. Cooper, at rule, Pruders, etc.
 vs Bill in Chancery.
 J.K.P. Legg, at rule, Pruders, etc.
 Filed 2nd Jan'y Rules, 1909.
 H.P. Ewing,
 Clerk.

1909 2nd Jan. Rules
 Bill filed, Spa use
 entered as to J.K.P. Legg
 + E.M. Beudson & D.
 N. as to them.
 1st Feb'y Rules
 D.N. confirmed as
 to J.K.P. Legg + E.M.
 Beudson & set for
 hearing as to them.

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

Humbly complaining your orators, Mary Morris, Elizabeth J. Gates, Jane Huff, Elizabeth Daugherty, Cora R. Huff, Malinda L. Legg, Susan C. Morris, Martha Morris, J. H. Morris, B.F. Daugherty, and Sallie Daugherty, members of the Congregation of the Old School Baptist Church at Oak Grove Church, in the Town of Keokee, in the County of Lee, who sue for themselves and on behalf of the other members of the said congregation, would respectfully represent and show unto your honor as follows: that they and each of them are members of the Old School Baptist Church at Keokee, Lee County, Virginia; that the said congregation consists of a small number of persons of which your complainants are a majority; that heretofore on the 30th day of October, 1877, Hiram W. Reece and Thomas G. Morris conveyed a tract of land situated on the waters of Big Crab Orchard containing about five acres more or less, for the use and benefit of the Pleasant Hill Regular Baptist Church and the Trustees of the Yokum Station School District, which conveyance is recorded in deed book No. 24, page 440; that the said lot of lands so conveyed by the said Morris & Reece aforesaid in the said deed as aforesaid, was limited to the exclusive use of church and school house purposes; that the said tract of land according to the terms and intention of the said deed cannot be appropriated or used for any other purposes than for the use of the said Pleasant Hill Regular Baptist Church, the Old School Baptist Church, and the said Yokum Station School Board, without the consent of each and all of the said grantees in the said deed. Your complainants herewith file a copy of the said deed and ask that the same be taken as a part of this bill,

Your complainants would further represent and show unto your honor that by the mutual consent of the Old School Baptist Church, the Pleasant Hill Regular Baptist Church, and the Yokum Station School Board, an agreement was entered into by the said grantees in the said deed and the Interstate Investment Company, and the Keokee Coal & Coke

Company, whereby the said tract of land was partitioned and a portion of the said lot laid off to the said School Board as its part of the lot with the understanding that the said Keokee Coal & Coke Company and Interstate Investment Company would grant to the said School Board a more appropriate and convenient lot for school house purposes, and after certain proceedings had in the Circuit Court for Lee County there was laid off to the said School Board 1 44/100 acres of the said lot, which lies along the base of the hill on which the church and school house building was located, said 1 44/100 acres being unfit for building purposes, but useful for a right of way on which to construct a tram road for the hauling of coal and coke from the Keokee mines and ovens to the Southern railroad, and by said proceedings had in the Court the Trustees of the said churches as aforesaid, and said school Board as aforesaid, were authorized and empowered to convey the said 1 44/100 acres to the said Keokee Coal & Coke Company and Interstate Investment Company, in consideration of the conveyance to the said School Board of another and different lot of land for school purposes, and a release of the said School Board's interest in the remaining part of the said tract of land to the said Trustees of the two churches aforesaid.

And your complainants allege that afterwards the said Trustees did convey the said 1 44/100 acres of land to the said Keokee Coal and Coke Company and the said Interstate Investment Company, and said School Board did release its interest in the said remainder of said lot.

Your petitioners therefore now allege that the said Trustees of the said Regular Baptist Church and the Old School Baptist Church are the holders of the legal title to the remaining part of the said lot, being 3 5/100 acres.

Your complainants would further represent and show unto your honor that the Trustees of the Old School Baptist Church are E. M. Cooper, Wm. H. H. Clark, and Ira Baker, that the said E. M. Cooper desirous to obtain a portion of the said lot of land remaining to the said two churches for commercial purposes undertook to procure 3/4 of an acre

thereof on the north end of the said lot adjoining the public road and the Jesse Moore tract of land, proposing to pay therefor the sum of \$750.00. But said Cooper being one of the Trustees of the said Property and therefore incompetent to contract with him, ^{self} entered into a scheme of having the Trustees procure authority from the Circuit Court for Lee County, to convey the said 3/4 of an acre to one D. E. Clarkston, it being the intention of te said Cooper, as soon as a deed was made to the said D. E. Clarkston to have the said D. E. Clarkston to reconvey the said lot to him, the said E. M. Cooper.

And your complainants allege that the said Cooper, in order to carry out the said scheme as aforesaid to defraud and cheat the said church of its just rights and property, at a meeting of a few members of the Old School Baptist Church, so your complainants are informed, being a very small minority of the members of the said church, which meeting your complainants ~~was~~ informed was held on the 1st day of June 1907, ~~and~~ procured a resolution directing the trustees of the said church to take steps to sell the said 3/4 acres of said land, and afterwards to-wit, on the 5th day of November, 1907, the said E. M. Cooper, Wm. H. H. Clark, and Ira Baker as trustees for the Old School Baptist Church filed their petition before the Judge of the Circuit Court of Lee County in vacation and procured an order based upon the allegations of their petition that it was the desire of the said church and to its interest to sell said 3/4 of an acre on the north end of the said tract, copies of which said resolution, petition and order are here filed with this bill of complainant as exhibit No. "2". By the terms of the said order as will be seen therefrom the said Trustees were authorized to convey 3/4 of an acre to the said D. E. Clarkston, on the north end of the said lot upon the payment of the sum of \$750.00.

Your complainants allege that the said conveyance has never been made under the said authorities granted in the said order. They allege that the said allegations therein are false and untrue, and that it is not to the interest of the said church to make sale of said lot.

but such a course is manifestly contrary to the interest of the congregation, contrary to the wishes of a majority of the members of the said congregation, and is a fraud perpetrated by the said Cooper as Trustee upon the said church. Besides your complainants are advised that under the terms of the said deed the said property and lot of land cannot be used for any other purpose than for church purposes, and especially without the consent of the Regular Baptist Church, it being the intention of the said deed that said property should be enjoyed jointly.

Your petitioners are further advised that the said Old School Baptist Church has no interest in any particular part of the said lot of land apart from the Regular Baptist Church, and that said Trustees could not be authorized to convey any specific part of the said lot to the said D. E. Clarkston, or any other person.

Your petitioners further allege that it is the desire and wish of nearly all of the members of the said Old School Baptist Church that the said lot of land should remain in tact and be owned jointly by the Old School Baptist Church and the Regular Baptist Church, and a joint church built for the use of the said Old School Baptist Church and the Regular Baptist Church with equal rights and privileges to each of the said churches in the said property.

Your petitioners allege that the said lot is not capable of partition; to authorize a sale and conveyance on the northeast corner of the said lot would entirely cut off the said lot from the public highway, there being only forty-two feet front upon the public road on the north end of the said lot, and this is the only outlet that the said lot has to any public road or highway.

Your complainants would further represent and show unto your honor that heretofore, to-wit on the 28th day of November, 1908, the Keokee Coal & Coke Company made a proposition to the members of the Old School Baptist Church in consideration of the coal and minerals under the said tract of land, to build a union church for the Old

School Baptist Church ~~and~~² the Regular Baptist Church to cost at least the sum of \$2500.00, or in lieu of the above proposition to build two separate churches for each of the said denominations to cost not less than \$1500.00 each, which said proposition made by the said Keokee Coal & Coke Company is here filed as part of this bill and marked as exhibit No. "3".

Your petitioners are further advised that the said Keokee Coal and Coke Company has made the same proposition to the congregation of the Regular Baptist Church and that the said Regular Baptist Church has accepted said proposition and has made its deed to the said Keokee Coal & Coke Company for its said interest in said land and has received in return a conveyance of the surface to be used for church purposes, and that it is the wish of the said Regular Baptist Church that a Union Church be built for the said Old School Baptist Church and the said Regular Baptist Church to be used by them jointly with equal rights to each of the said churches.

And your petitioners allege that this is the wish and desire of nearly all of the members of the Old School Baptist Church, and they allege that it will be to the advancement and to the interest of the said Old School Baptist Church to accept the said proposition of the said Keokee Coal & Coke Company, the said proposition of the said Keokee Coal & Coke company providing that the Trustees of the said Old School Baptist Church shall convey the interest of the Old School Baptist Church in said lot to the said Company, that in return ~~there~~ therefor to reconvey the surface for church purposes only, retaining to itself the minerals under said lot with a right to mine the same, and to build either a separate church for the said Old School Baptist Church to cost not less than \$1500.00, or a Union Church for both of said churches to cost not less than \$2500.00.

Your petitioners alleges that at the time the said resolution hereinbefore mentioned was recorded as ~~being~~ having been passed, there were only present a very few and a very small minority of the members of the said Old School Baptist Church, and that those who were present

were not given an opportunity to vote upon the question or to oppose it, but the motion on the resolution was put and declared carried without any one voting upon the question. The premises considered your petitioners are advised that the said order as aforesaid authorizing a conveyance of said $3/4$ of an acre to the said D. E. Clarkston should be annulled, vacated, and set aside, and that the said proposition made by the said Keokee Coal & Coke Company referred to in exhibit No. "3" should be accepted and the said Trustees of the said Old School Baptist Church, or some one for them directed and authorized to convey the said ~~xxx~~ lot to the said Keokae Coal & Coke Company and receive in return therefor a reconveyance of the surface of the said lot to be used for church purposes only, and a joint or Union Church ~~should be built~~ to be built by the said Keokee Coal & Coke Company on the said lot and to cost not less than \$2500.00.

The prayer therefore of your complainants is that the said E.M. Cooper, Wm.H.H.Clark, ^{Trustees, as aforesaid} Ira Baker, and D. E. Clarkston be made parties defendant to this bill of complaint and be required to answer the same but not under oath, answer under oath being expressly waived, that the said Trustees as aforesaid be enjoined from executing the said deed to the said D. E. Clarkston; that the said exparte proceedings and order entered therein be vacated, annulled and set aside and declared for nought; that the said Trustees be compelled and ordered to carry out the ^{with} question of the said Old School Baptist Church congregation and accept the said proposition of the said Keokee Coal & Coke Company and benefits to be derived thereunder, and compelled to convey the interest of the said church to the said Company upon the terms and conditions and for the benefits set forth in the said proposition. And may all other further and general relief be granted your ~~petitioners~~ petitioners that the nature of their cause and good conscience requires. And they will ever pray &c.

R. J. Davis & Remington Bros. p.q.

Costs:

Erving clerk \$8.50

Atty ~~15.00~~

shff 2.75

Carriage 28.51

\$54.76

26.25

15.00

11.25

19.79

31.04

Depts Cost

Shff. \$0.30

N.P. 4.49

\$4.79

Atty - 15.00

19.79

Mary Morris et al

vs. Bill

E.M. Cooper et al

1909 2nd Jan Rules

Bill filed, Sp. ex-
cuted as to E.M.
Cooper, Wm. H. H. Clark
and Ira Baker & D.
N. as to them

" 1st Feb Rules

D.N. as to the above
mentioned confirmed
& cause set for hearing
as to them ^{and} ^{Sp. ex-} ^{part}
to D.E. Clark et al
seated & D.N. as to her.

" 2nd Feb. Rules
D.N. confirmed & cause
set for hearing as to D.E.
Clark et al.

Pennington Bros.

ATTORNEYS AT LAW,

JONESVILLE AND PENNINGTON GARVA.

To The Honorable J. A. W. Skeen
Judge of the Circuit Court of Lee Co Va
Your petitioners J. C. Noel
L. J. Duncan & Geo P Briddle
will respectfully show to your Honor
that they were employed as attorneys
by the trustees of the old school
for primitive T Baptist Church to
represent prosecute and defend the
interest of said church and congrega-
tion in certain litigation in two or
three suits pending in this Honorable
Court which litigation is now
ready for final disposition

Your petitioners are requested
by the trustees to ask your Honor
to fix the fee to be paid them for
their services. Your petitioners
will not show your Honor that the
property involved was and is very
valuable worth at the least \$8000.00
That the work required of them was
considerable in filing answers and
other pleadings, taking depositions
arguing the case on different points
Your petitioners are of opinion that
the sum of \$4.50⁰⁰ will only be a small
fee for the services rendered by them
but they are willing to accept same
and ask your Honor to allow them and
they will ever pray &c

J. C. Noel
L. J. Duncan
Geo P Briddle

Mary Morris et al

^{vs.}
E. M. Cooper trustee et al

^{and}
E. M. Cooper, ~~trustee~~ et al

^{vs.}
J. K. P. Legg, et al.

Petition.

Filed Feb. 21, 1912

Jed. Edds, Clerk

E. M. COOPER ET AL, TRUSTEES,

v.

ANSWER.

J. K. P. LEGG ET AL, TRUSTEES.

The joint and separate answer of J. K. P. Legg, E. M. Bledsoe and J. M. Barker, trustees for the Pleasant Hill Regular Baptist church of Oak Grover property, to a bill of complaint exhibited against them and others in the circuit court of Lee county under the above styled caption.

Not waiving their demurrer filed herein but insisting thereon, these defendants answering the bill say:

It is true that respondents are the trustees of the Pleasant Hill Regular Baptist church of Oak Grover property, but they deny that the plaintiffs are trustees of the Old School Baptist church of the Oak Grove property and deny that the plaintiffs have any right to sue in their alleged capacity of trustees.

It is true that by deed dated October 30, 1887, Hiram Reese and Thomas G. Morris conveyed the five acres of land mentioned in the bill to the churches and the school board, as is set out in said deed which speaks for itself. It is also true that as between the said two churches and the school board partition has been made whereby a certain part of the five-acre tract was assigned or attempted to be assigned to the school board and the remainder of the 3.05 acres to the two churches. It is also true that an ex parte proceeding was taken by the plaintiffs wherein they were authorized, if it was competent for the judge of this court in vacation to authorize such proceeding, to lay off a part of said property as is set out in the bill and to sell and convey the same to D. E. Clarkston upon the payment of \$750. These proceedings are matters of record and respondents, without admitting or denying the legal effect of said records, admit the existence thereof. They admit that no conveyance has yet been made to the said

D. E. Clarkston. They deny that there are any dissensions or misunderstandings between the said two churches or the members thereof, and deny that it has become impossible for the two churches to use and occupy said property in harmony or to treat each other with the proper Christian spirit and charity. On the contrary respondents say that there is not now and has not at any time been any dissension or misunderstanding between the members of the two said churches other than a difference of policy as to the matter of holding or disposing of, in whole or in part, the interest of each of the said churches in and to the said 3.05 acres of land, as will be more fully shown hereinafter.

Respondents deny that at a meeting of the congregation of the said Old School Baptist church held at Oak Grove on the ____ day of _____, 19__, or at any other time, they passed a resolution authorizing the plaintiffs to file suit or take any legal proceedings to have the said land partitioned between the said two churches.

Respondents say that it is true that the Kooke Coal & Coke Company, a corporation, has taken deed from these respondents as trustees for the interest of the Pleasant Hill Regular Baptist church in the land mentioned, but this deed was taken upon an agreement that the said company should reconvey to respondents the surface of said land, reserving to it the mineral and certain mining rights in and under the said land. Your respondents file herewith a certified copy of the ex parte proceeding before your honor whereby your respondents were authorized and directed to make the said deed to the Kooke Company; also certified copy of the said deed and a certified copy of the deed ^{to respondents from} ~~from petitioners~~ to the said Kooke Company, marked "EXHIBITS A, B. and C," respectively, all of which speak for themselves and show just what was done in that connection and show the respective rights of the Regular Baptist church and the said Kooke Coal & Coke Company in and to the said tract of

of land.

Respondents say that a large proportion and perhaps a majority of the congregation of the Old School Baptist church are opposed to this proceeding which was brought here by these complainants, and that they favor an arrangement similar to that made between the said Keokee Company and the Regular Baptist church, or that a joint arrangement shall be made in accordance with the proposition made by the said company to the congregations, which proposition is more fully referred to and set forth in a bill in chancery now pending in this court of Mary Morris and others v. E. M. Cooper and others and exhibits filed therewith, and respondents pray that said last named chancery cause be read in connection herewith and as a part hereof, and that this cause be brought on to be heard together with said cause.

Respondents deny the right of the Old School Baptist church, through its trustees or otherwise, to sell any portion of the said ground either in undivided form or after division and partition, if such can be made, to D. E. Clarkston or any one else for secular purposes. They are advised and they here charge that the deed from Reese and Morris to the trustees of the said two churches was a gift for religious and benevolent purposes and that thereby a charitable trust was created which a court of equity will enforce and will not allow the sale of any portion of said land for secular purposes or the use thereof for such purposes. These respondents earnestly insist that the said 3.05-acre tract of land be kept for religious purposes only. They say that to allow a partition thereof, to be used for business purposes, would greatly detract from the value of their half for religious purposes. They say that the lot can be partitioned in kind for religious purposes but not otherwise; that the frontage thereof is only 42 feet and that if this frontage or any part thereof be taken, built upon and

and occupied for secular purposes that the only outlet to the public highway would be blocked, whereas if the said frontage be kept open as a pass way to the interior of the lot there would be sufficient room for two church lots.

And now having answered as fully as they are advised it is material that they should answer, respondents pray to be hence dismissed with their proper costs in this behalf expended.

J. K. P. Legg,
E. M. Bledsoe,
J. M. Barker,
Trustees,
Pleasant Hill Regular Baptist Church of
Oak Grove,

By counsel.

Pennington Brothers,
Irvine & Morison, p. d. .

E. M. Cooper et al

vs { Answer of
Leg et al
Trustees

J. P. Legg et al

Filed in open Court
and by leave thereof
on Monday Dec 13, 1909.

H. C. J. Ewing,
Clerk.

E. M. COOPER ET AL, TRUSTEES ,

v.

Answer.

J. K. P. LEGG ET AL, TRUSTEES.

The separate answer of the Keokee Coal & Coke Company, a corporation, to a bill of complaint exhibited against it and others in this honorable court under the above styled caption.

Respondent answering says that it has read the answer of J. K. P. Legg, E. M. Bledsoe and J. M. Barker, trustees, co-defendants herein, to the plaintiff's bill and it believes that the said answer states the facts involved herein, and it adopts said answer as its own as fully as if copied at length herein. As is shown by the exhibits filed with the said answer. it is the owner of the mineral and mining rights in and under the one-half of the 3.05-acre tract of land in controversy, in consideration of which it stands ready to carry out its agreement to erect a church house on the said land at the place to be designated by the trustees of the Regular Baptist church to cost \$1500.00. Respondent further says that it made the same proposition to the plaintiffs in this cause on behalf of the Old School Baptist church and it stands ready to put into execution this proposition if accepted, and it says that it believes that it is greatly to the interest of said congregation to accept the same, and believes that a large portion of the congregation of said church desires to accept the same rather than to sell a portion of the said land for secular purposes for the purpose of raising money to build a church house for the said church. Respondent says that it is advised and here charges that a court of equity has no power to sell any portion of the tract of land in controversy for secular purposes; that the land was a gift by Hiram Reese and Thomas G. Morris for religious and charitable purposes, and it

says that the trust created by the deed of conveyance in controversy is capable in every way of being executed and carried on. The plot of ground comprising the 3.05 acres is an exceptionally beautiful and satisfactory piece of land for religious purposes. It is large enough for the uses of the two congregations in question but it is not any more than they reasonably need to carry out the designs of the donors. Respondents say that it is very doubtful if any mining will ever be done by it, but if any is done it will be such only as would not in any wise disturb the surface or jeopardize any building erected thereon. It will be seen from the conveyance by respondent to the trustees of the Regular Baptist church that the question of disturbance of the surface is carefully safeguarded, so that there can be no physical danger to any buildings erected upon the surface by granting to respondent such mining rights as it possesses under the deed from the Regular Baptist church.

And now having answered as fully as it is advised it is material for it to answer, it prays to be hence dismissed with its reasonable costs in this behalf expended.

Keokee Coal & Coke Company,

By counsel.

Irvine & Morison, p. d.

William Irvine

E.M. Cooper it is

vs { Success of
 { Hebron Cattle Co.
 { Co.

J.H.P. Legg it is

~~~~~

Filed in open Court  
and by leave thereof  
on the 13<sup>th</sup> day of  
Dec. 1909

H.C. J. Ewing  
Clerk.



To the Honorable H. A. W. Skeen, Judge of the Circuit Court of Lee County, Virginia.

The separate answer of D. E. Clarkston to the original and amended bills of complaint filed in this honorable court by E. M. Cooper, William H. H. Clark and Ira Baker, Trustees of the Old School Baptist Church of the Oak Grove Property of Lee County, Virginia, against her and others.

Respondent admits that by deed dated October 30th, 1877, of record in the Clerk's Office of Lee County, Virginia, Hiram W. Reece and Thomas G. Morris conveyed unto the Pleasant Hill Regular Baptist Church and the Old School Baptist Church and the School Board of Lee County, or to the Trustees of said two churches, and the said School Board respectively, the five acre tract of land in the original bill described, and that the same was so conveyed in fee simple; it is also true, as respondent is informed and believes, that the said two churches and the said School Board made a partition of said five acre tract of land by virtue of which a portion thereof was assigned and conveyed to the said School Board, and the remainder thereof, being three and one-half acres, was assigned to the said two churches in equal undivided ownership; that it is true that by an order entered in your honor's court on the 2nd day of November, 1907, in an exparte proceeding on the petition of the complainants' Trustees as aforesaid, they, said complainants, as such Trustees, were ordered to lay off the part of said property on the northern end thereof, adjoining the public road and also adjoining the Jesse Moore tract of land, containing  $3/4$  of an acre, and to sell and convey the same to respondent upon the payment by her to them of the sum of \$750.00, and respondent alleges that said order went further



and provided that the said deed of conveyance should further provide that, if upon partition of the said land between the Old School Baptist Church and the Pleasant Hill Regular Baptist, the said portion of the said land so conveyed to the said D. E. Clarkston should not be assigned to her, then she is to be entitled to have assigned to her enough land out of the said tract, quantity and quality considered, to equal the value of said  $3/4$  of an acre; that said proceeding was based upon a contract between the said plaintiff and said Trustees and F. M. Clarkston and assigned by the latter to this respondent, attested copies of said proceedings and said contract are herewith filed as part hereof, marked exhibits "A" and "B" respectively, and asked to be considered as part hereof; that it is true that said conveyance has not as yet been made to her, but she alleges that she has at all times since the date of said order been ready, willing and desirous to pay the said purchase money (\$750.00), and take a deed of conveyance for said  $3/4$  of an acre upon the terms and conditions set forth in the said order, and at the special instance and request of the said Trustees respondent paid to J. F. Billitt, Esq., the attorney for said Trustees in the matter, the sum of \$15.00 upon the said purchase price, and your respondent had a deed prepared and placed the same in the hands of the said Trustees for execution, and several times demanded that the said deed be executed to her, but for first one reason and then another the said Trustees did not execute the said deed of conveyance to her, but always promised and agreed to do so, and have never denied her right to such conveyance, which said deed is still in the possession of the said Trustees, and respondent



alleges that she is now ready and willing to pay said purchase money less the said \$15.00 already paid by her and receive said deed for said  $3/4$  of an acre of said land; that it is true that if said land owned jointly by said two churches was partitioned between them it would give one and three-fourths acres to each church, leaving one acre for the Old School Baptist Church after the sale to this respondent shall be carried out by the execution of a proper conveyance to this respondent for the said  $3/4$  of an acre of land, and in this case equity should consider that as done, which should have been done, and should in the partition of the said land lay off to this respondent the said  $3/4$  of an acre at the place originally contemplated, if it can be done, or if not, land equal in value to said  $3/4$  of an acre, quantity and quality considered, at some other point, and that the complainants should be directed, upon the confirmation of such partition, to convey the part thus allotted to this respondent to her by a proper deed of conveyance.

Respondent says that she does not know of the alleged dissensions and misunderstandings between the said two churches, and does not know whether or not said property can be used and occupied properly as joint property by said two churches, and does not know of the resolutions passed by the Old School Baptist Church to have said land divided, but she supposes that such a resolution was passed, but your respondent alleges that having said  $3/4$  of an acre adjudged to her as aforesaid, she is advised that she has a right to the same according to the terms of her said contract, and that the full benefit of her said contract should be accorded to her in this case, she



having at all times been ready, willing and anxious to comply with the same upon her part, and now being ready, willing and anxious to comply with the same upon her part, and here offering to do so as the court may direct by the payment of the balance of the purchase price due from her, and that in the partition of said Oak Grove Property she has the right to have the said  $3/4$  of an acre laid off to her on the north end thereof, adjoining the Jesse Moore land, and if this cannot be done, to have enough land assigned to her out of said  $3-1/2$  acres, quantity and quality considered, to equal the value of said  $3/4$  of an acre.

Respondent says that she knows nothing of the alleged conveyances to the Keokee Coal and Coke Company and R. L. Pennington, attorney, but calls for strict proof of all allegations in said original and amended bills adverse and prejudicial to her rights in the said tract of land.

Respondent says that she joins in the prayer of the plaintiffs' bill for a partition of said tract of land among the parties entitled thereto according to the respective interest therein as alleged in said bill, and that her share in the said land be assigned to her in the said partition according to her rights as set forth in her said contract, *and said order in said proceedings.* And now denying each and every allegation of said bill not hereinbefore admitted or denied, respondent prays to be hence dismissed with her costs, etc.

D. E. Clarkston,

By Counsel.

*E. W. Kelly*  
Attorneys for D. E. Clarkston.



E.M. Cooper, et als. Trustees,

VS { Answer of  
D.E. Clackson

J.H.P. Legg, et als. Trustees,

Filed May 7th, 1909.

H.A. D. Ewing,  
Clerk.



To the Honorable H.A.W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

The demurrer and answer of E. M. Cooper, W. H. H. Clark, and Ira Baker, trustees of the Old School Baptist Church, situated near or at Keokee, Lee County, Virginia, to the bill exhibited against them in this Honorable Court by Elizabeth J. Gates and others.

Your respondents say that they are advised that said bill is not sufficient in law to call upon them to answer in this Honorable Court, and they demur to the same, and pray judgment of their said demurrer etc and for cause of demurrer, and said respondents say that said bill shows no equity or other right in the complainants to entitle them to maintain this suit, but should other and further answer be required of them, answering they say;

That said suit is instituted in the name of the several plaintiffs mentioned therein, without their knowledge or consent, and certainly against the will of Mary Morris, Jane Huff, Elizabeth Daugherty, Susan C. Morris, Martha Morris, J. H. Morris, B. F. Daugherty and Sallie Daugherty, whose names are used as plaintiffs in said suit, and as your respondents will here show your Honor, each one of these last named parties whose names are used as aforesaid as plaintiffs, have signed a paper protesting against the institution and maintenance of said suit and the granting of the relief therein prayed for, as will more fully appear by reference to said protest, which is here filed as a part hereof marked Exhibit #1.

Your respondents say that it is true that the congregation of the Old School Baptist Church at Oak Grove Church, near Keokee, in Lee County, Virginia, is very small, consisting of only about 22 or 23 members. Two of these members, to-wit: B. F. Daugherty, and Sallie Daugherty, his wife, and whose names are used as plaintiffs, are the residents of the State of Missouri, and have been gone from Lee County some eighteen months to two years.



It is true that on the 30th day of October, 1877, Hiram W. Reese and Thomas G. Morris conveyed a tract of land, containing about five acres, to the Pleasant Hill Regular Baptist Church and the Old School Baptist Church, and for the use of the school-children in the surrounding vicinity, and the trustees of said two churches and of the schools of said County, giving the metes and boundaries thereof. To have and to hold the same with all its appurtenances to the Pleasant Hill Regular and Old School Baptist Churches, and the neighborhood or vicinity, for school purposes and the regular trustees of the same, or successors in office, in fee simple, for the sole use of said churches and school forever.

It is further true that by the mutual consent of the trustees of the Old School Baptist Church and the trustees of the Pleasant Hill Regular Baptist Church and the Yokum Station School Board, an agreement was entered into by which a certain portion of said lot was laid off by metes and bounds for school purposes, and a conveyance made accordingly. The part laid off contains one acre and forty-four hundredths, and this partition was approved and confirmed by the Circuit Court for Lee County,

It is further true that the remainder of said land, consisting of about  $3 \frac{1}{2}$  acres, now belongs to the congregations of the Pleasant Hill Regular Baptist Church and the Old School Baptist Church, and that the same is held by trustees for their benefit.

It is further true that your respondents, E. M. Cooper, W. H. H. Clark, and Ira Baker are trustees and the only trustees of the Old School Baptist Church at that place.

Your respondent E. M. Cooper denies that they entered into any scheme of any kind with intent, or for the purposes of defrauding the church or the Congregation of the Old School Baptist Church at Oak Grove of its property, or any part thereof, but on the contrary the members of said congregation expressed the idea that some one should be on said property to protect it; that said congregation should have a better house in which to worship and that there was more of said



lands than was necessary to the uses of said congregation for a place of worship, and the proposition was made to your respondent the said E. M. Cooper to purchase a part of said property and build upon it, care for said property, and entertain the minister appointed to minister to said congregation. This your respondent, the said E. M. Cooper declined to do, because, being a trustee he did not believe it was proper for him to become a purchaser of any of said property, and after your respondent declined to make said purchase, to-wit: at a regular church meeting held at the Church house on said property on June 1st, 1907, a resolution was adopted directing and empowering your respondents, as trustees to sell a three-fourths acre interest in said property on the Northern end of said land adjoining the public road and also adjoining the Jesse Moore tract of land at the rate of \$1000.00 per acre, and for that purpose to take such legal steps as were necessary and then directed them to use the proceeds from said sale in building a church house on the remainder of said property, all of which is more fully and at large shown by said resolution which is filed with the vacation proceedings referred to in the pleadings in this cause which is asked to be read as a part hereof. In obedience to this resolution your respondents began hunting for a purchaser and found one in the person of F. M. Clarkston, to whom they contracted said land in accordance with the terms of said resolution, afterwards as they are informed the said F. M. Clarkston conveyed his contract, which was and is in writing, to his wife, D.E. Clarkston for whom said purchase was made.

Your respondent denies that this action was taken by a minority of said church members, but this plan was agreed upon at a regular church meeting, all the members present, and being a quorum of said church, voting for such order and such resolution. After this resolution was adopted, your respondents, the said E. M. Cooper, W.H.H. Clark and Ira Baker, trustees for the Old School Baptist Church, did file their petition before the Judge of Lee County, in vacation, and



did procure an order, directing said sale to be made, but said sale so made as aforesaid has not been consummated by a conveyance, but they most emphatically deny that the allegations of said petition are in any way false or untrue, because the action taken in the filing of said petition was pursuant to the orders of said church, adopted at regular church meeting, and your respondents, as trustees, only attempted to carry out the wishes of the congregation.

" As to the point made by the bill that on the terms of said deed the said property and lot of land, cannot be used for any other purpose than for church purposes."

Your respondents are now advised this is a matter of construction for the Court, and if the plaintiffs are right in their construction that it can only be used for church purposes, then certainly they have no right to the relief prayed for and the demurrer to the bill must be sustained.

Respondents admit that the Old School Baptist Church has no interest in any particular part of spot of said lot of land, apart from the regular Baptist Church, the ownership is joint and each church or congregation owns an undivided moiety of the whole, and for this purpose, believing this to be the true construction of the rights of each your respondents as trustees of the Old School Baptist Church, have filed and have pending in this Honorable Court, a bill asking for a partition of said lot of land between said Old School Baptist Church and the Regular Baptist Church.

Your respondents deny that it is the desire and wish of all, or nearly all of the members of said Old School Baptist Church that said lot of land should remain in tact and should be owned jointly by the old School Baptist Church and the Regular Baptist Church, and that a joint church should be built for the use of both congregations, with equal privileges to each of said churches. On the other hand it is the desire of the Old School Baptist Church to have their portion of said lot laid off to them and they hope to erect thereon a church,



suitable to their purposes, belonging to them, and with no joint use to it, to any other person; your respondents deny that said lot of land is not capable of partition, but on the other hand, it is susceptible of partition, without injury to the interests of either of the joint owners, and in fact, in their opinion, a partition would be for the mutual benefit of all concerned.

Your respondents have been informed that some time in November, 1908, the Keokee Coal & Coke Company made a proposition to the Regular Baptist Church and to some of the members of the Old School Baptist Church, to lease or purchase the coal and other minerals on and under said tract of land, and to build a Union Church for the two congregations to cost not less than \$2500.00, or that in lieu thereof, they would build a church for each of said congregations to cost not less than \$1500.00 each. This proposition is not acceptable to the ~~members~~ trustees of the Old School Baptist Church, nor is it acceptable to the members thereof, with the exception of perhaps three. The other members of said church and the trustees thereof, protest against said action being taken, and they know of no law equitable or otherwise that can compel them to make a trade against their will, and they deny that it will be to the interest of said congregation of the Old School Baptist Church to accept this proposition. Said land is very valuable, for many purposes, among which is the coal and other minerals thereon, and for the further reason that it is so situated with reference to the property of the Keokee Coal & Coke Company, that its value for almost any purpose is very great, in fact, it is readily worth, and if it could be divided into lots and sold, it would readily bring from \$3000.00 to \$5000.00 per acre, and to accept said proposition and mine the coal from under it, and by surrounding it by the class of people that constitute the miners at these coal mines, would be to practically, if not entirely, destroy the property for church purposes, in fact the property ought to be held in entirety and divided or partitioned between the two owners, so that each would



own its own share in severalty. It might possibly be to the interest of both churches to sell said property as an entirety and divide the proceeds, but certainly your respondents, as the trustees of said property, on the part of the Old School Baptist Church and for 3/4 or more of said congregation, earnestly protest in the strongest manner they know <sup>how</sup> ~~of~~ against a leasing of said property for mining purposes, or a sale of the mineral thereon, as is proposed to be done by this bill at the request, not of the members of the church, but for the benefit of the Keokee Coal & Coke Company.

Respondents further say that there is no necessity for an injunction, restraining and inhibiting them from selling and conveying to Mrs. D. E. Clarkston, which they admit would be improper, until partition of said land is made, but their prayer now is that this bill be dismissed or it be considered along with the bill filed by themselves for the partition of said land, and that said land be partitioned, and that each of said churches or the congregations thereof take that which they are entitled to, that if partition cannot be made then the whole of said land be sold and that the proceeds thereof be divided between the said two congregations.

Now having fully answered said bill as fully as they are advised that it is material to answer the same, and they denying each and every allegation not hereinbefore especially denied or admitted, and especially denying all allegations of fraud and scheming or otherwise on the part of said E. M. Cooper, these respondents pray to be hence dismissed with their reasonable costs.

J.C.Noel.

Duncan & Cridlin.



E. M. Cooper et al  
ads. { In Chancery

Mary Morris et al  
Declarer + Answer.

Filed Feb. 9, 1909.

H. C. P. Ewing, Clerk.



To the Honorable H. A. W. Skeen, Judge of the Circuit Court of Lee County, Virginia.

The Demurrer and Answer o f D. E. Clarkston <sup>to</sup> the Bill of Complaint <sup>1</sup> purporting to be filed in this Honorable Court against her and others by Mary Morris and others, members of the Old School Baptist Church at Oak Grove Church in the town of Keokee, Lee County, Virginia.

Respondent says ~~s~~ that said bill is not sufficient in law.

But should answer be required, respondent, not waiving said demurrer, says, that she bel i eves it to be true that ~~the~~ alleged complainants would constitute a majority of the congregation of said church, but respondent is informed, and believes and ~~charges~~ that this suit was instituted in the names of these complainants without their knowledge and consent, or that if any such pr etended consent was obtained, it was so obtained through fraud and misrepresentation, as hereinafter more fully set forth, and that in reality this is not a suit by these complainants at all but, on the contrary, the unauthorized and unjustifiable use of their names as complainants herein is a fraud, an imposition upon the court and upon the attorneys who drafted the said bill, and the bill should therefore be dismissed without requiring any further answer to the same, but nevertheless respondent says that it is true that on October 30, 1877 Hiram W. Reece and Thomas G. Morris conveyed a tract of land situate on the waters of Big Crab Orchard Creek in Lee County, Virginia, containing five acres, more or less, to the Pleasant Hill Regular Baptist Church, The Old School Baptist Church and the Trustees of the ~~Oakum~~ Station School District, which said tract of land is described in the said deed, a copy of which is filed with the bill. But she denies that there is in and by the said deed any limitation whatever upon the use of said property by the gran-



tees therein, or that the consent of each grantee therein would be necessary for any of the other grantees therein to dispose of its interest as it might see fit, but, on the contrary, the said conveyance is absolute, and passes to the said grantees an unrestricted fee simple title with no reservations or reversions whatever in favor of either of the grantors therein.

Respondent supposes it is true that the said two churches and the said school board entered into an agreement whereby the said tract of land was partitioned to a certain extent and a portion of the said lot laid off to the said school board as its part thereof, leaving to the said two churches three and one-half acres of the same, and respondent supposes that this was done with the understanding that the Keokee Coal and Coke Company and the Interstate Investment Company would get the portion thus assigned to the said school board, and would, in exchange therefor convey to the said school board another parcel of land for school purposes, which said conveyances were perfected by orders of the Circuit Court of Lee County, or the judge thereof, and respondent is informed, believes and charges that the said two companies in so conveying to said school board were careful to provide that the said property should never be used by said school board for other than school purposes thus ridding themselves of that much competition in business in the said town of Keokee, which accounts for the activity of the said two companies in perfecting the said arrangement, For more certainty respondent refers to said partition proceedings and said deeds of conveyance.

It is also true that said two churches are the holders of the legal title to the remaining part of said land.

Respondent admits that E. M. Cooper, William H. H. Clark and Ira Baker were the trustees of the said Old School Baptist



Church, and they, except Ira Baker who ~~has~~ recently resigned, are still such, and it <sup>may be</sup> ~~xxxxxx~~ true, as this respondent believes, that at one time said E. M. Cooper contemplated purchasing a portion of said property, he being urged to do so by the members of the said congregation of the said Old School Baptist Church, who desired that he should purchase the same and build thereon a home for himself and for the ministers when sojourning there in attendance upon religious meetings, and, in order that the church might use the purchase price, which they hoped he would pay in erecting a neat and comfortable church building in which the said church members might worship, and, while he the said Cooper may thus have contemplated purchasing a ~~portion~~ of the said property at the earnest suggestion and solicitation of the said church members, he never did so, and finally gave up the idea of doing so.

At one time the said congragation, as this respondent is informed, believes and charges went so far as to pass a church resolution offering three-furths of an acre to said Cooper at the price of \$750.00, but this proposition he finally decided not to accept, and did not accept the same, and, upon learning that the said Cooper either could not or would not purchase said three-fourths of an acre, the said congregation began to urge it upon the said trustees to find for them an acceptable purchaser of the said three-fourths of an acre, in pursuance of which the said trustees approached F. M. Clarkston and offered to sell him the said three-fourths of an acre at the same price that the church had fixed as aforesaid, to-wit: \$750.00 and after considering the matter and believing it to be a suitable location in which his son could carry <sup>on</sup> ~~of~~ the mercantile business, he finally agreed with said trustees to purchase the said three-fourths of an acre from them, if they would take such proceedings as would make to him a valid contract for the sale thereof, and in accordance with this offer and in order to carry out the same the said congregation duly met and adopted a resolution authorizing said trustees to enter into a



certain contract with the said F. M. Clarkston for the sale of the said three fourths of an acre to him at the said price of Seven Hundred and Fifty Dollars, which was then even more than a fair price for the same, which resolution was duly entered upon the minutes of said Church and a copy of the same duly attested and certified by the Clerk of said Church is herewith filed marked "Clarkston Exhibit No. 1". And respondent further shows that in pursuance of said resolution of the said Congregation the said Trustees did on October 12th, 1907, enter into a written contract with the said F. M. Clarkston for the sale of the said three fourths of an acre to him at the price of said \$750.00, a copy whereof is herewith filed marked "Clarkston Exhibit No. 2", which said contract was on the day and year last aforesaid duly assigned by the said F. M. Clarkston ~~to~~ to this respondent as will be seen by reference to the assignment endorsed on the back thereof, and thereupon the said Trustees duly instituted proceedings conformably to the statute in such case made and provided before the Judge of the Circuit Court of Lee County to have said contract confirmed to this respondent and in pursuance thereof the said Judge of the said Court on November second, 1907, duly entered an order in said matter approving and confirming said sale to this respondent as will appear from a copy of said proceedings herewith filed marked "Clarkston Exhibit No. 3".

It is not true that the allegations of the said petition so filed before the said Judge are false or untrue in any particular; nor is it true that the said contract was not authorized by a majority of the said congregation, but on the contrary thereof, the same was at the time, and until long after it was confirmed as aforesaid in exact accordance with the wishes and desires of each and



every member of the said congregation, and such as have recently become dissatisfied with the same, which are only very few in number as respondent believes, have been led to express such dissatisfaction by the unjust meddling of the said Keokee Coal and Coke Company and The Interstate Investment Company, and perhaps influenced <sup>also by</sup> a personal difference between them and F. M. Clarkston over another transaction. ~~xxxxxxmovingxxpixxixinxakk~~  
~~thixxxfforxxkox~~. The fact is that until long after the said contract was confirmed by the Judge of said Court the said congregation was entirely satisfied with the said sale, knowing that the price thereof was at the time more than a fair one, and that the sale was a very advantageous one to the said Church, but as soon as the said two companies learned that it was intended for respondent's said son to erect a store house on the same, they, the said companies set about to do and have done all they could to prevent the said contract from being carried out, and said companies and their agents and employees have industriously sowed the seeds of discord wherever they could, and by fraud and misrepresentation procured a number and indeed the majority of the complainants to sign some sort of a paper purporting to authorize the institution of this suit, which paper was not read to them and its contents entirely misrepresented, the complainants never dreaming of the real nature thereof and with the exception of possibly three or four of them, none of them would ~~be~~ upon any fair presentation of the matter have authorized the use of their names as complainants in this unjust suit at all, and the said three or four who might possibly have so authorized the use of their names are in the employe and under the direct domination and influence of the said two companies and their agents and employees, and so as



before stated this suit is a fraud and imposition upon Court and Counsel, ~~and~~ The sole object in view of the ~~inter-meddling~~ said two companies in thus meddling with the honest affairs of others is to prevent respondent's said son from putting up said store building on said three-fourths of an acre, and to prevent other competition with them in the commissary or boarding house business, at the Town of Keokee where the said companies have in operation a very extensive coal and coke plant and are conducting commissaries and boarding houses and endeavoring in every way possible and by all means within their power to have an absolute monopoly of all such, and the alleged recent rise in value of properties in said Town has been caused largely by the manipulations of said companies to induce the Court if possible to believe that this respondent's contract is not a fair one, whereas, the same was honestly and fairly entered into, and for a price even larger than the property was worth or could have been sold for at the time of the confirmation of the contract and for many months afterwards.

Respondent states that while it may be true that said property is now held jointly by the said two churches so that no particular and specific portion thereof could be conveyed effectually by the one without the other, yet this feature of the matter is clearly provided for in the said Church order and resolution, and in the said written contract and in the said order of the said Judge confirming the said contract.

The land is susceptible of partition, and the said Trustees of the said Old School Baptist Church in order to have the same partitioned have already filed their bill in the said Circuit Court of Lee County ~~to have the said land~~ ~~therein~~ recognizing and admitting your respondent's said interest in the said



Respondent believes that with the possible exception of the said three or four members referred to above of the said congregation that it is the desire of the said congregation that the said contract *with this respondent* should be carried out as made, and respondent does not believe that it is the desire of any great number of them that the said two companies should be allowed to so manipulate matters as to leave the said Church with only the surface of said land with every restriction thrown around its use and upon any future sale of the property, which the bill shows on its face is the sole desire of the said two companies, in order that they may prevent any competition and have the monopoly of stores and boarding houses as above set forth.

It may be true that the said F. M. Clarkston knowing and being fully cognizant of the desires of the said congregation that the said Cooper should have a home upon a portion of said land, was willing to let the said Cooper have a por tion of said land after he became the purchaser thereof, upon the basis of actual cost, as it would have been a benefit to him to have said Cooper carry on a boarding-house upon the premises, and he may have so expressed his *which was known and fully understood & concurred in by each and every member of said* said willingness, but the said Cooper, while at times expressing a similar desire never had any definite contract or understanding to that effect, ~~and xxxxxxxxx abandoned all idea xxx ever restoring any~~

boarding-house upon the premises, and he may have so expressed his *which was known and fully understood & concurred in by each and every member of said Council*  
said willingness, but the said Cooper, while at times expressing a



and finally stated that having gone i nto the mercantile business he, said Cooper would not be able to take and pay for any part of said land, as he never was in any way obligated to do.

And now having answered the said bill, or so much thereof, as this respondent is advised it is material or necessary for her to answer, and here now generally denying each and every allegation of the bill not hereinbefore admitted or denied, prays to be hence dismissed with her costs in this behalf expended.

B. E. Clarkston,

By Counsel,

E. W. Kelly  
Attorney for D. E. Clarkston.



Mary Morris et als.

Answer of.

W. J. D. Clackson

C. M. Cooper et als.

Filed May 7th 1909.

H. C. D. Ewing,  
Clark.

AYERS & FULTON

ATTORNEYS AT LAW

WISE, VA. BIG STONE GAP, VA.



29.  
1809-M4.

VIRGINIA: LEE CIRCUIT COURT.

E. M. Cooper, et als, Trustees,

v.

DEMURRER.

J. K. P. Legg et als, Trustees.

Defendants, J. K.P. Legg, E. M. Bledsoe and J. W. Barker, Trustees, demur to the plaintiffs' amended bill in this cause, and say the same is not sufficient in law, and for ground of demurrer they say:

(1) The deed in controversy herein created a charitable trust requiring the joint use of the property involved by the congregations of the two churches for religious and educational purposes only, and it is not competent for either church or its trustees to require of the other a partition or sale of said property.

(2) The holding of church property and the right to divide or dispose of the same is governed by statute, and the statute of Virginia does not anywhere require or authorize the partition of church property such as this.

(3) Even if partition of such property were lawful the trustees of a congregation have no right of their own motion to institute such a suit. Such action must be authorized by the congregation, and such authority must be alleged and proved. It is not alleged in this case.

*Remington Bros  
James Remington*



E. M. Cooper about Tumble

Dr. Drummond

J. P. Legg Hunter also

Filed Dec. 6, 1909

H. J. Ewing,  
Clerk.



Mary Morris and others.....Complainants.

Vs.

E.M.Cooper,Trustee, and others.....Defendants.

and

E.M.Cooper,Trustee, and others.....Complainants

Vs.

J.K.P.Legg,Trustee, and others.....Defendants.

This cause came on this day to be heard upon the papers formerly read therein, the report of L.M.Carmical, A.K.McClure, J.F.Albert and D.C.McClure,Commissioners,filed in this cause on the 22nd day of November,1911, the petition of Duncan & Cridlin and J.C.Noel,attorneys, filed in the cause of E.M.Cooper and others,Trustee, Vs. J.K.P. Legg,and others,Trustee, and argument of counsel.

On consideration of all which and it appearing to the court that the report of said Commissioners is not excepted to, it is adjudged, ordered and decreed that the same be and is hereby approved and confirmed. And it is further adjudged,ordered and decreed that the Old School Baptist Church take and hold free from the claims of the Missionary Baptist Church the lot laid off and assigned to it,and that the said Missionary Baptist Church take and hold the lot laid off and assigned to it,free from the claims of the Old School Baptist Church,subject to the rights of the Keokee Consolidated Coke Company and its assigns in the said premises,and that D.E.Clarkston and E.M. Cooper take and hold the lot laid off and assigned to them free from the claim of the Old School Baptist Church,except for such purchase money as may be due and owing by the said D.E.Clarkston and E.M. Cooper,on, to the said Old School Baptist Church. And it is further adjudged,ordered and decreed that the said report and plat attached thereto,the decreexappointing the said Commissioners,and this decree be recorded upon the deed books of this County,and the costs of recording same taxed as part of the costs in the cause of E.M.Cooper Vs. J.K.P.Legg.



The court having considered the said petition of the said Duncan & Cridlin and J.C.Noel, asking the court to fix the amount of compensation to be paid by the Trustees of the Old School Baptist Church, D.E.Clarkston and E.M.Cooper, for their services rendered in this cause, and the said attorneys having set up in said petition that the sum of \$450.00 is a reasonable compensation for their services in these causes, and the court being of opinion that said fees are reasonable, it is adjudged, ordered and decreed that the said D.E. Clarkston, E.M.Cooper and the Trustees of the Old School Baptist Church pay to the said Duncan & Cridlin and J.C.Noel the said sum of \$450.00 to be apportioned by the said Trustees, the said Clarkston and said Cooper, according to the value of the lots assigned to the said D.E. Clarkston, E.M.Cooper, and Old School Baptist Church.

It is further adjudged, ordered and decreed that the defendants in this cause of Mary Morris and others Vs. E.M.Cooper and others recover of the Keokee Consolidated Coke Company their cost in this behalf expended. And it is further adjudged, ordered and decreed that the costs in the case of E.M.Cooper, Trustee, et al, Vs. J.K.P.Legg, Trustee, et al, be paid in the following manner; one-half thereof by the Trustees of the Old School Baptist Church and E.M. Cooper and D.E.Clarkston, the other one-half by the Trustees of the Missionary Baptist Church and the Keokee Consolidated Coke Company.

And this cause is stricken from the docket.



Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 9th day of July, 1912, the foregoing decrees, Commissioners' report and plat were presented, and together with the certificate annexed.

Teste:

*W. E. Cadden*

Clerk.

3-208

Wm. Morris itab

vs { Decree  
Findings

E. M. Cooper itab

E. M. Cooper itab

vs { Decree  
Findings

J. K. P. Legg itab

Entered in C. O. B.  
No. 9, page 279tc

Rec'd this

Feby 22-1912

Haw Slum

Recorded in Decet.  
Book 52, page 212  
Examined July 18, 1912  
Indexed.



E. M. Cooper et al Trustees - - - - - Plaintiffs  
Vs. In Chancery.  
J. K. P. Legg et al - - - - - Defendants

and

Mary Morris et al - - - - - Plaintiffs  
Vs. In Chancery.  
E. M. Cooper et al Trustees - - - - - Defendants.

Thease cause came on this dayto again be heard upon the pa-  
pers formerly read in the causes, and the decree entered in said  
cause on the 17th day of February, 1909, the amended bill of E.M.  
Cooper et al Trustees, the demurrer of J.K.P.Legg, E.M.Bledsoe  
and J.W.Barker, Trustees, to said amended bill, and joinder in said  
demurrer, the joint and separate answer of the said J.K.P.Legg,  
E.M.Bledsoe and J.W.Barker, Trustees &c.to said amended bill, the  
answer of the Keokee Coal & Coke Company, a corporation, to said  
amended bill, the separate answer of D.E.Clarkston to the original  
and amended bill of complaint of E.M.Cooper et al trustees, and the  
answer of the said D.E.Clarkston to the bill of Mary Morris et al,  
and general replication to each of said answers, and the depositions  
of witnesses, and was argued by counsel.

On consideration of all which, it is adjudged, ordered and de-  
creed that said demurrer of the said J.K.P.Legg et al trustees, be  
and the same is hereby overruled, and it is further adjudged, order-  
ed and decreed that the bill filed by Mary Morris et al, be and  
the same is hereby dismissed.

And the Court being of opinion that the said E.M.Cooper et al  
Trustees are entitled to have partitioned the lot of land in the  
Bill and proceedings in this cause mentioned, between the Old  
School Baptist Church and the Missionary Baptist Church, or their  
assigns if any, it is therefore adjudged, ordered and decreed that  
L.M.Carmical, J.F.Albert, D.C.McClure, A.K.McClure and W.E.Wynn  
who are appointed Commissioners for the purpose do go upon said  
lands and partition the same equally between said two churches,  
assigning to each, one equal moiety thereof in value.

After making said partition as above directed said Commission-  
ers will then lay off ~~xxxxxxx~~ out of the lands assigned to the



Old School Baptist Church, three-fourths of one acre, which has heretofore been contracted to D.E. Clarkston, and which said three-fourths of an acre, when paid for according to said contract, shall be conveyed by the Trustees of said Old School Baptist church to D.E. Clarkston and E.M. Cooper in the proportion of one-third to D.E. Clarkston and two-thirds thereof to E.M. Cooper. And said Commissioners in laying of said three-fourths of an acre, will so lay off the same as not to destroy the value of the residue of the tract of the Old School Baptist church for church purposes.

Said Commissioners will report their action hereunder to a future term of this Court.

Upon the calling of ~~these causes~~ <sup>and during the argument of ~~this cause~~</sup> it was suggested by counsel for the defendants in the first above styled causes, that E.M.

Cooper, W.H.H. Clark and Ira Baker, had never been appointed as Trustees of said old School Baptist Church, <sup>but the records of said church in evidence in the cause, showing that they had been regularly selected & nominated by said church as such Trustees on - day of Sept. 1906, being first Saturday in said month</sup> on the Motion of counsel for plaintiff in said Cause the Court entered an order appointing and confirming said E.M. Cooper, W.H.H. Clark and Ira Baker as Trustees for Old School Baptist Church for Oak Grove Church, in the Crab Orchard Lee County, Virginia, which order was entered by the Court before these causes were submitted.

And this cause is continued.



E. M. Cooper et al Trustees  
vs.

J. K. P. Legg et al  
and

Mary Morris et al  
vs.

E. M. Cooper et al Tr.

Entered in C.O.B.  
# 9, page 221 ve.

-1-

Recorded in Deed  
Book 52, page 208<sup>th</sup>  
Examined July 18, 1912  
Indexed.

Enter this Deed  
H. W. Stone

Sept. 14, 1911.



E. M. Cooper and others, Trustees.....Complainants.

Vs.

In Chancery.

Jas. K. P. Legg and others, Trustees.....Defendants.

and,

Mary Morris and others.....Complainants.

Vs.

In Chancery.

E. M. Cooper and others, Trustees, .....Defendants.

These causes came on this day to be heard upon the bills of the complainants and exhibits filed therewith, and the demurrer and answer of E. M. Cooper and others, Trustees, to the said bill of Mary Morris and others, and the joinder of the complainants in said bill in the said demurrer and general replication to said answers, and the motion of counsel for D. E. Clarkston for further time to answer the said bill, and the plea of J.K.P. Legg and others, Trustees, to the said bill of E. M. Cooper and others Trustees, and was argued by counsel.

On consideration of all which the court is of the opinion that the said E. M. Cooper and others, Trustees, should amend their said bill of complaint making the parties named in the said plea, and also D. E. Clarkston, parties to the said bill of complaint, and the said complainants will mature their said amended bill at rules, and upon the motion of the said D. E. Clarkston to answer the said bill of Mary Morris and others, leave is granted to her until the second March rules, 1909, to file her answer in said causes, and all questions raised regarding the matters involved in the said suit or each of them in these causes respectively are continued, *and these causes are ordered to be brought on to be heard together.*



E.M. Cooper & Co

vs. { Deere

M.P. Legitt & Co

vs. Deere

Mary Morris & Co

vs. { Deere

E.M. Cooper & Co

Entered in C.O.B.  
# 8, page 46 2<sup>nd</sup> ed.

Charles Lee's

July 17-1909

H. C. W. Stone



The deposition of Charles D. Bailey taken before me, Allie O. Freeman, a Notary Public, at the law office of C.T. Duncan, Jonesville, Virginia, on the 13th day of February, 1911, to be read as evidence in behalf of D.E. Clarkston in two certain suits in Chancery depending in the Circuit Court of Lee County, Virginia, styled E.M. Cooper, et al Vs. J.K.P. Legg, Trustee, et al, and Mary Morris et al Vs. E.M. Cooper, Trustee, et al.

This deposition is taken pursuant to adjournment from Big Stone Gap on the 11th day of February, 1911.

Present: J. C. Noel for E.M. Cooper et al, Trustee, and R.T. Irvine for Keokee Coal & Coke Company, and E.W. Kelly for D.E. Clarkston.

Charles D. Bailey, after being by me first duly sworn deposes as follows:

Q. Mr. Bailey what is your age, residence and occupation?

A. I am fifty-five years old, live near Olinger, and am a farmer. I survey a little sometimes.

Q. Did you at one time go to Keokee with F.M. Clarkston to survey a lot of land he claims to have purchased from the Old School Baptist Church at that point?

A. I did.

Q. Why did you go with him?

A. Well, he come after me as I remember and told me that he had purchased a piece of land there and the Trustees, I do not remember their names, wanted me to do the work. He said the Trustees that he bought the land off wanted it done. I think he named Mr. Cooper.

Q. What work were you to do?

A. Well, just simply to lay off the little tract of land that he bought. I think that is about all he wanted me to do. I think probably the understanding was that I was to take the acknowledgment of the deed. I was Notary Public then.



Q. Did you do the surveying?

A. No I did not.

Q. Did you take the acknowledgment to the deed?

A. I did not.

Q. Why did you not do these things?

A. Well, we failed to get the courses adjoining the railroad track. We could not get anything that would give us the courses of that line. That was the cause. We made efforts to get them and failed.

Q. How many of the Trustees did you see there?

A. Two is all I remember. I think that was all.

Q. Who were they.

A. E.M. Cooper and Henry Clarkston.

Q. And they then were willing to make the deed to Cooper.

A. They seemed to be perfectly willing to have the surveying done, that was my understanding. Not having the courses seemed to be the sole cause of not having it done. They made some efforts to get the courses and failed.

This question and answer objected to that the witness should tell what transpired and not his opinion.

R. T. Irvine.

W. What did Cooper or H.H. Clarkston do towards securing the calls for the 3/4 of an acre.

A. Mr. Clark went off to the Superintendant as he said to get the calls and come back and reported that he failed, as I remember, to get them. I remember one trip he made and said the Superintendant would not give them to him.

Q. Did you understand whether there was anything else which kept them from making the deed besides this failing to get the calls?

A. I did not. They seemed to be willing to have it done. I could not locate the line without getting the courses. That is the cause that kept me from attempting it anyway.



Q' Did the Trustees Cooper or Clarkston pay you for your time or offer to pay you for coming over there to do this work.

A. I did not charge anything. They mentioned something about paying me. I think Mr. Cooper offered to pay me and I told him I had not done any work. I did not get any pay because I did not charge anything.

Q. Did Mr. Cooper have any papers with him when he went over there

A. Yes sir, he had some papers.

Q. Do you know what those papers were.

A. As I remember there was a blank to have filled out and executed. I remember reading the order of the court, I reckon you would call it an order.

Q. What did he do with those papers?

A. I could not say for certain what he did do with them, It has been several years.

Q. Did you see him give any of the papers to Clarkston any time during the day?

A. I can't remember for certain about that at all.

Q. Do you know whether Clarkston was ready to pay them their money that day or not.

A. I could not say about that. I had a talk with him but I do not remember.

Q. What were you talking about?

This question objected to because incompetent and immaterial.

R. T. Irvine.

A. I advised him to pay for it and get his deed. That is what I told him I thought it was all right, and advised him to pay it up and get his title right then. I told him he would be safe in doing it, I thought he had made a good trade, and as a friend told him I thought the papers were all right. And further this deponent sayeth not.

(Signature waived)



Virginia,

Lee County, to-wit:

I, Allie O. Freeman, a Notary Public, in and for the County of Lee, in the State of Virginia, do hereby certify that the foregoing deposition of Charles D. Bailey was duly taken and sworn to before me at the time and place and for the purpose in the caption mentioned.

Given under my hand this the 13th day of February, 1911.

Allie O. Freeman N.P.



E. M. Cooper to et al  
vs. { In Chy.

J. K. P. Legg et al

And  
Mary Morris et al  
vs. { In Chy.

E. M. Cooper to et al

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Filed Feb. 15, 1911.

H. C. J. Ewing Clerk

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Deposition of Chas. D. Bailey

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Notary fee one hour 75 cts.



The deposition of F. M. Clarkston, taken this, the 11th day of February, 1911, at the office of Irvine & Morison, Big Stone Gap, Virginia, before me, J. G. Nesbit, a Notary Public in and for the County of Wise, and State of Virginia, to be read as evidence on behalf of D. E. Clarkston in two certain suits in chancery heard together, now pending in the Circuit Court of Lee County, Virginia, under the style of E. M. Cooper et al, Trustees v. J. K. P. Legg et al, Trustees, and Mary Morris et al v. E. M. Cooper et al, taken pursuant to agreement of counsel for all the parties, and without notice.

P R E S E N T

|               |                                              |
|---------------|----------------------------------------------|
| E. W. KELLY,  | Counsel for D. E. Clarkston;                 |
| R. T. IRVINE, | Counsel for Keckee Coal & Coke Company;      |
|               | No Counsel for E. M. Cooper et al, Trustees. |

F. M. Clarkston, being first duly sworn, deposes as follows:

BY MR. KELLY:

Mr. Clarkston, what is your age, residence and occupation?

A- 53 yrs., occupation farming.

Q- Where do you live?

A- Turkey Cove, Lee County, Virginia.

Q- Mr. Clarkston, did you at one time make or enter into a written contract with E. M. Cooper and others as Trustees of the Old School Baptist Church for the purchase of certain property at that time belonging to the Old School Baptist Church, near Keckee, Virginia?

A- Yes, sir.



Q-Did you ever receive any deed from these church trustees for that property?

A-No, sir.

Q-Will you please state the circumstances under which that contract was entered into; first, with whom did you enter into the contract?

A-Entered into the contract with E. M. Cooper, Wm. H. H. Clark and Ira Baker, Trustees of the Old School Baptist Church.

Q- Now, please state the circumstances under which you entered into that contract?

A- I was over at Keckee looking for a situation for my son to sell goods. I was at Mr. E. M. Coopers - the Old Baptist people had a meeting going on over therē, Mr. Robinett was their pastor, and Wm. H. H. Clark was at Mr. Coopers and several others; I do not remember who they were, and I was talking to them about buying more property there, if I could find any that would suit me, and Mr. Cooper remarked, he said that we might be able to sell you some land, and it kind of surprised me, and I said, where have you got any land to sell, and he said that the old Baptist Church was talking of selling a part of their land to get money to build them a church, that they had more land than then needed for church purposes and the church was talking of selling the property to get money to build another church house. I told them that that would suit me exactly, and I would buy it, that that was where I would like to have it, then I asked them what it would cost, and Mr. Cooper remarked that he had told the church that I would pay at the rate of \$1000.00 per acre -- I said to Cooper, that looks like it is awful high to me, but I am willing to pay that much for it. Well, they went on to say that the Old School Baptists were going to have a church meeting some time about the first of June, and that they would have the matter brought before the church to see if the church wanted to sell it, - a portion of the land, so I, sometime before the first of June, came up to Big Stone Gap, went to Judge Mathews and got



him to prepare a resolution in the proper form for the Clerk of the Church to sign in case they agreed to sell a portion of the land and I either mailed it to the Trustees or taken it to them; I am not positive which, so along during the summer or fall I wrote to Mr. Cooper and W. H. H. Clark to know of them what they were going to do in regard to selling me a part of their land, I told them if I got any of their land I wanted to know it, and if they were not going to sell I would buy some where else, so along in a week or ten days afterwards I got a letter from Mr. Cooper requesting me to come over on a certain day, some time in October, 1907, that they were going to have a church meeting and that the Trustees would all be there and they would be able to enter into a contract with me for the land and he further stated in his letter that the church had acted on the matter and had authorized them to sell a portion of the land, I think it was  $3/4$  of an acre, so I gets Judge Mathews to prepare me a contract and I took it and went over there, on the day he wrote me the contract, and I went to Mr. Cooper's house and found him at home and Wm. H. H. Clark but Ira Baker, the other Trustee, was not there. I presented the contract to Mr. Cooper, I believe, first; he took it and looked over it - it was not dated, he added the date to it and made some corrections, and signed it, and handed it to Wm. H. H. Clark and he signed it. They told me to take the contract to Ira Baker to see if he would sign it, so I took the contract and went over to Turkey Cove around to Mr. Baker's house and showed it to him; he says I will sign it, he says they are over there and know more what they want to do than I do, and if it suits them, it suits me. They instructed me, after Mr. Baker signed the contract, to take it to an attorney at Big Stone Gap, to get some one to prepare a partition for them, and have the sale confirmed, so I came up to Big Stone Gap and went to Mr. Mathews and told him what I wanted and he said he would take the case and attend to it and have the sale confirmed for \$60.00, so I reported to the trustees what he wanted to charge them, and they said



that was more than they wanted to pay, they said they were willing to pay \$15.00, but were not willing to pay any more, so I came back to Big Stone Gap after I had seen them and I went to Mr. Bullitt's office and showed him the contract and told him what I wanted; he- I told him that Judge Mathews wanted to charge them \$60.00 and that they were not willing to pay it, and told him if I could get any one to do it for \$15.00 they were willing to pay that much for it. Mr. Bullitt says, Mr. Clark, I will do this for you for \$15.00, but I would advise you before you go into this thing to bring the deed or copy of the deed that was made by Morris and Rhodes to this church property, that I want to examine the title, I would not want you to get into a thing unless I thought you could hold it; he said it might become more valuable some time like Preacher Creek;

OBJECTION by Mr. Irvine -

The Keokee Coal & Coke Company objects to all the foregoing evidence which gives the conversation between the witness and J. F. Bullitt as hearsay and incompetent.

So I went and got a copy of the deed and brought it to Mr. Bullitt later, he examined it and told me that it was a deed in fee simple;

OBJECTION by Mr. Irvine -

Keokee Coal & Coke Company objects to any conversation between the witness and J. F. Bullitt, and what J. F. Bullitt said to the witness - this is hearsay evidence and incompetent.

and that they had a perfect right to sell a part of it for church purposes, so he went ahead shortly afterwards and prepared the partition, got the sale confirmed and also prepared a deed for the Trustees to sign, sent the deed and copy of the partition and decrees to me by mail with a letter enclosed telling me to get a surveyor and go over there and survey this lot according to the contract and have them to



make the deed;

OBJECTION BY Mr. Irvine -

So much of the foregoing answer as refers to the letter of J. F. Bullitt, or any conversation with him, is objected to as immaterial and incompetent.

So I sent the trustees a copy of the decree and requested them to make the deed for me. The trustees informed me later that they, had at a regular church meeting, just afterwards, read before the church a copy of the partition and decree and also the deed, and the church ordered them to carry it out;

OBJECTION BY Mr. Irvine

So much of this answer as refers to what the Trustees informed him and of the action between the trustees and the congregation is objected to as hearsay and incompetent.

So I pressed on them to make the deed according to the decree and the terms of the partition, and some time afterwards I got a letter from Mr. Cooper to come over on a certain day that the County Surveyor would be there to run off the lot, so I went over on that day to prepare the deed, to have the deed made and when I got over there they had got a letter from the County Surveyor, Thompson, of Lee County, that he had gotten his eye hurt and could not come, so the trustees asked me to go and see Charley Bailey, who is a surveyor, so see if I could get him to come over and lay it off for us, so I went and seen Mr. Bailey and he agreed to go the next day, so I and he went over there to run off the lot and make the deed. When we got over there we did not have the calls of the right of way of the railroad - there were so many stakes there we could not tell anything about it, and I went up



to the Keokee Company's office and asked them for the calls of the right of way -- anyway it is that little railroad that runs up from Keokee Junction to Keokee - and they told me in the office at 12 o'clock when the engineer came in I could get the calls, so Mr. E. M. Cooper and Wm. H. H. Clark went up after dinner to get the calls and they said that the Superintendent told them that they had them there, but that they were private property and they did not wish to let them out, so we did not get to run it out, and I did not get the deal made. Mr. Bailey was a notary public and we instructed him to lay off the lot and also take the acknowledgment to the deed, but we did not get it done. I delivered to the trustees when I first went there, the deed that I had prepared, expecting them to make the deed that day. I tried to get the trustees later on to have it laid off and make the deed, but I have been unable to do so. I delivered them the deed, and they have it in their possession now, I suppose, and I have not seen it since.

Q- Was this the deed which Mr. Bullitt prepared for them to sign?

A- Yes, sir.

Q- What was the reason they did not sign it at that time?

A- The only reason that I know anything of is because they could not get the lot laid off.

Q- Did they agree that day to sign it?

A- Yes, sir; they agreed to sign it. Mr. Bullitt written me in the letter to have the land surveyed and have the survey filled in.

Q- Did you, during the negotiations with Cooper, at any time, either before or after this contract was entered into, conspire with Cooper to defraud the Old School Baptist Church of its property?

A- No, sir; no conspiracy on my part of it, I bought the land in good faith.



Q- Did you make any written contract with Cooper whatever concerning this land?

A- None except three-fourths of an acre?

Q- What I mean, did you make any contract with Cooper whereby you were to reconvey this land to Cooper.

A- No, sir.

Q- Did you ever offer to sell him a portion of this land?

A- Yes, sir; I have.

Q- On what terms and conditions?

A- Cooper ~~remarked~~- seemed to be so anxious to have an interest in the land and I told him on different occasions I would not have any objection at the minimum price?

Q- What did you mean by the minimum price?

A- The price I was to give.

Q- What were the conditions annexed to that proposition?

A- Well, my understanding was that the trustees be at all the expense, partition the land, deliver the deed and divide it, etc., and it appeared to me that the church there would agree to have Cooper living on a portion of the land, and it was a matter of accommodation on my part to suggest to him that I would sell him a portion of it. Me and Cooper has always been good friends, raised together and I thought I could sell him a part of the land.

Q- Was your offer to sell to Cooper made to him before or after you had entered into the written contract with E. M. Cooper, Wm. H. H. Clark and Ira Baker as Trustees?

A- Well, I talked with him a great deal, I do not think there was anything said before they had entered into the <sup>written</sup> contract, but I have



talked to him; I wrote him one letter in regard to it, that if he still wanted a portion of the land I would let him have it on certain conditions.

Q- Has he ever accepted your offer?

A- Not to my knowledge.

Q- Do you still hold this contract with Cooper, Baker and Clark as trustees of the Old School Baptist Church?

A- I assigned the contract over to my wife, D. E. Clarkston, before the sale was confirmed.

Q- Did you assign it before the partition was filed by the trustees.

A- Yes, sir; I did.

Q- Has your wife, D. E. Clarkston, ever entered into any written contract with Cooper or with anyone else to reconvey this property?

A- No, sir; she never has had any conversation even in regard to it with Cooper; never has seen him.

A- Have the Trustees of the Old School Baptist Church or the members of that congregation ever denied your right or D. E. Clarkston's right to a deed to this property, so far as you know?

A- Well, All I know is t is, I was at Keokee last summer or when Mr. Noel was taking depositions there for the trustees of the church in the suit of Mary Morris and others; I was present looking after our interests, and after they got done taking depositions I went out to where Wm. H. H. Clark was on his mule fixing to start home and I said to him -- I was talking to him about my interest in the case, and I told him I was looking after it, and that I was going to try to hold them to my contract -- he said you don't aim to try



to hold that contract ~~with~~ we assigned you away back yonder, do you, I said yes, sir; I had been out a lot of money and could not be down and out without defending the suit, he said there was nothing in it, is about the words he said or used. He seemed to think I had no case. I also had a talk with Mr. E. M. Cooper. I told Cooper that it seemed to me like we ought to fight the case together, not be at war with each other in defending the suit, that he had been talking to me wanting me to let him have an interest in it, and that if he wanted it that we had better fight together; he remarked and said that the church made a mistake in selling me that piece of land; that they ought not to have done it until after it was divided, and then they could have done as they pleased with it. He told me at different times that I would have to look out for myself, but asked me to make as light a fight as I could.

Q- Did any one deny your right to the deed before the institution of this suit?

A- Not to my knowledge.

Q- Did you or did D. E. Clarkston ever pay the purchase price of \$750.00 to the Old School Baptist Church?

A- No, sir.

Q- Why has it not been paid?

A- According to the contract and the decree of the court, I have been advised that I was not to pay it until I got the deed, but we have been ready at all times and anxious to get the deed.

Q- When you and Mr. Bailey went to Kooke to have the land surveyed and the deed acknowledged by the trustees, were you then ready, willing and anxious to pay the purchase price and receive your deed?

A- Yes, I went over there and took Mr. Bailey with me and also the original deed, with the expectation of having him- the deed made



that day, and when they could not get the courses of the railroad, could not lay it off, Mr. Bailey advised me to just pay it off, he said it was all right, he examined it - the deed -, and if it was not laid off right that they would agree to give the land at some other place, according to the decrees. I gave them the deed that day, as I stated a while ago. They still have it in their possession, at least I have never seen it since.

Q- Did Cooper, at the time that you entered into the written contract, to purchase the 3/4 of an acre, tell you that he had declined to accept the proposition of the property, or words to that effect, or that he had given up the idea, or anything?

A- Well, I do not know what he meant, as I said in the beginning, when he suggested to selling me a portion of the land, I asked him what it would cost, and he said he had proposed to the church that I would be willing to pay at the rate of \$1000 per acre; I suppose by offering to sell it to me that he had abandoned the idea of purchasing by offering to sell in case the church had concluded to sell a portion of the land. Some time after this Mr. Cooper told me that he would like to have a portion of that land to build on it and live and die on it in order to take care of the church property and entertain the minister, and after he had bought out Mr. W. T. Baker's interest in my son's store - they were in partnership together in the goods business, I was over there, I went over there frequently to look after my son and try to keep him straight if I could, they seemed to be going getting along very nice, and I suggested to Cooper that as soon as we get this land matter through that I would let him have an interest in the land and we would build a business house on it in partnership, and I he said how will it suit you; he said, I am short of money matters in buying-- buying out this interest in the store, it has taken all my money, he said I have not got the money; I said I know where you can borrow the money if you should want to do it, and he did not give me any answer whether it would suit him or not. Since that time he and my son have



dissolved partnership.

Q- At the time that you entered into the contract to purchase this three-fourths of an acre, did you, and do you still, consider that \$750.00 was a fair price and reasonable price for the property?

A- Well, at the time I bought the land, it has been several years ago - 1907, I believe, the Keokee plant was just in its infancy, fixing to build school houses, etc., I thought at the time it was a big price for it. The reason that I thought it was a big price was this, I was informed by the trustees that W. S. Palmer had offered only \$600.00 for both the interests of the two churches; I do not know that to be so, but they tell me, the Trustees of the Old Baptist Church told me that.

Q- Did the congregation of the Old School Baptist Church at Keokee seem to consider this a just compensation of their property, and did it seem to be their wishes that the property be conveyed to you?

A- I do not know anything about the wishes of the congregation at that time, I never was at any of their regular church meetings.

Q- Did you ever talk to any of their members of the church besides the trustees in regard to the matter, in regard to purchasing?

A- No, sir.

Q- Did anyone regard- refer to whether the compensation was fair and reasonable, that is, whether you were paying a sufficient sum for the property?

A- No, I never had any talk with any members of the church except the trustees, as I remember it, because there are very few around there.

Q- How large is the Keokee Coal & Coke Company's plant at this time?

Q- OBJECTION by Mr. Irvine - As immaterial.



A Well, I consider it one among the best coal plants in the country.

Q Has the value of the real estate near the plant increased or decreased since your contract with the church trustees?

A- OBJECTION BY Mr. Irvine - As immaterial.

A- Well, it has increased, I should think it has increased very much.

Q- In what way has it increased; that is, for farming purposes, commercial or business purposes?

A- Well, I should think it has increased in a general way.

Q- What would you consider its greatest value now, that is, for what use could it be applied and secure the greatest income from it?

A- You have reference to this lot, I suppose?

Q- Real estate in general, especially this and other property that is located very near the coal operation.

A- I consider that property there for commercial purposes has increased during largely -- 100 percent with the town building up around there, more people there, more work and bigger pay rolls.

Q- Did you ever at any time have any agreement with E. M. Cooper that you would purchase this property for him or ever have any understanding to that effect?

A- No, sir; they alleged somewhere in some of these bills that E. M. Cooper was the real purchaser and that D. E. Clarkston was only a tool as I take it, and that she agreed to re-convey it to him.

Q-



CROSS EXAMINATION

BY Mr. Irvine -

Q- You say that you told Mr. Cooper when he came to you to sell you this 3/4 of an acre at \$750.00, that the price was awful high, you actually thought when you told him that, that the price was awful high?

A- It sounded to me pretty big, the way land was selling heretofore in the Crab Orchard. 20 yrs. ago you could buy a pretty good farm in there with a horse.

Q- You think it has now increased 100 per cent?

A- Yes, sir; fully 100 or more, possibly 500 per cent. in some localities.

Q- 500 per cent. in some localities?

A- Yes, sir, in the town limits.

Q- Were there as many people there when you made this agreement as there are to-day?

A- Well, there was not as many buildings there, they were just beginning to build the plant at that time. They had not worked more than one year --- they were just beginning to work, I think.

Q- Your son and Cooper were partners in the goods business near Keokee?

A- No, sir.

Q- What time did ~~year-fir~~ they form their partnership?

A- My son at that time was in partnership with W. T. Baker, and they formed that partnership, to the best of my recollection, about latter part of May or first of June, 1908.



Q- When was it that you were over there with Charley Bailey to have the land run out and the deed made?

A- It was in the latter part of 1907 or early part of 1908, I am not sure, some time after the sale was confirmed -- it was the winter season of the year.

Q- And you left a deed there with the trustees, did you?

A- Yes, sir; I gave them the deed when me and Mr. Bailey went there, handed it to the trustees on the ground.

Q- Which one of the trustees did you leave it with?

A- There were only two of the trustees present, Cooper and Clark; Ira Baker was not there. They were both present, I do not know which, but I believe I delivered it to Cooper. Mr. Legg he came up and noticed me not to survey; he sent a written notice by a boy, that is the way it was, and Mr. Cooper, I think it was, went down and seen him and he showed him a copy of the order of the court and we stayed there and he came back to where we were at and said Legg, after he examined the order of the court, he said so far as he was concerned they could run it, Cooper said he said it was legal, they could go ahead. Legg was the Trustee of the Regular Baptist Church.

OBJECTION by Mr. Irvine.

So much of this answer as purports to give what Legg or Cooper said is objected to as hearsay.

Q- You left the deed with Cooper to close the matter up, did you?

A- I left the deed and he said that he would go to Jonesville and get a copy of that right of way of the record and would get a surveyor and run it out, and shortly afterwards they got into a law suit over it and for some unknown cause to me, never have surveyed it or made a deed. I pressed my claim as hard as any man ever did, I reckon, upon after him all the time.



Q Did not Cooper notify you that he was ready to make the deed any time you would give him a writing for one half interest?

A- No, sir.

Q- Did he not give you such a notice?

A- No, sir.

Q- Did he not write you on that subject?

A- No, sir; I wrote to Cooper on one occasion; all the answer I ever got from Cooper was in answer to a letter I written to him. After the suit was brought I wrotten to Mr. Cooper as he had been talking all the time that he wanted an interest in that land, and I said if we let you have any interest in that land you will have to come up with your part of the attorneys fees and help us make this fight, I said if we go ahead and have to employ counsel and fight this thing out we cannot let you have any at all unless you come with your part. I got an answer to that letter.

Q- What did he say?

A- He says I still want half of an acre of that land as bad as I ever did and if you see cause you can send me a contract or come over and we will talk the matter over. That was so unsatisfactory to me that I never sent him any written proposition or verbal. I had a-written him that he well knew that I had bought the land in good faith and was not willing to step down and out of the case without defending the suit.

Q- Was that after the suit was brought or before?

A- After the suit was brought.

Q- Have you a copy of that letter you wrote Mr. Cooper that you are referring to?

A- I thought I had a copy of the letter, I do not think it is this one.  
Q- Have you got the letter of Mr. Cooper that you are just testifying



about?

A- Yes, sir. Cooper Acknowledges that they, the trustees, entered into the contract with me in good faith, believing that it was the order of the church.

Q- Please file same as a part of your deposition, marking same: exhibit, "Cooper letter"

A- I file it marked as exhibit " Cooper letter."

Q You have just handed me what purports to be a carbon copy of a letter which you wrote E. M. Cooper and others, Trustees of the Old School Baptist Church at Pleasant Hill, which letter is dated at Olinger, Lee County, Va., March 8, 1909, I will ask you to file this copy as part of your deposition, marked "exhibit letter to Trustees."

A I herewith file same as requested, but I do not think, and I am pretty sure that I never received any answer to this letter.

Q- You acted for your wife in everything that was done and said in this matter, and as her agent, did you?

A- Yes, sir; <sup>as-</sup> after I signed the contract over to her, everything that was done or said in regard to it was done by me. HShe never was in any conversation with Mr. Cooper in any way.

Q- She paid you nothing for that assignment, did she?

A- No, sir; not in dollars and cents she did not.

Q- You never paid the trustees any money, I believe you said?

A- No, sir.

Q- Did you ever sign any notes or any contracts agreeing to pay them anything?



A- No, I never signed any contract for them, they signed a contract to me.

Q- Why did Wm. H. H. Clark tell you there was nothing in your trade with the church?

A- I do not know, sir; his reasons, I did not assign any reasons, except that, I believe he did state that the property was worth a great deal more now than it was then, and I think he did say that it would not be money enough to build a church house, and he told me that Will Arch Head proposed, I do not remember what the amount was, to pay them, but it was some \$2000 or \$3000 for 40 ft. square; 40 or 80 ft. square; I will not say the size of the lot.

Q- Have you any other letters or copies of letters that passed between you and Cooper or any of the other trustees?

A- I never got any letter from any of the trustees except Cooper. I did not, at any time, receive any letter from Wm. H. H. Clark, but Mr. Cooper written me the letter I told you about, to come over on a certain day that he was authorized to sell, and I went as I stated before,

Q- Have you got that letter of Cooper's?

A- No, sir, I have not got it; I do not think I have. Every once in a while I take a cleaning up and destroy a lot of matters, but this one is among the letters I have displaced and I have never been able to find it.

Q- Have you any other letters at all from Cooper?

A- No, sir; not that I know of, unless I have got one; it strikes me that --- I would not be positive, but I think when B. H. Sewell, one of my attorneys or counsel went with me to Wise to Mr. Fultons, went there to get



Mr. Fulton to help answer the bill, it appears to me that I had another letter, and it rather strikes me that I gave it to Mr. Sewell, but I would not be positive.

Q- You have no other letters with you?

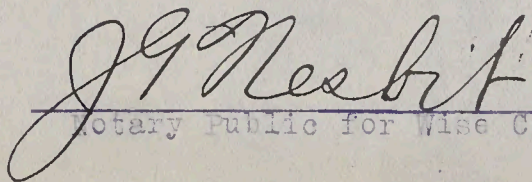
A- No, sir.

Q- Will you make a search and try to find these letters and if so file them with the court?

A- Yes, sir; and if so, I will certainly file them I have gone through all my papers as carefully as I could and just happened to find this one with some old warrants and things I filed away not more than two or three weeks ago.

And further deponent sayeth not.

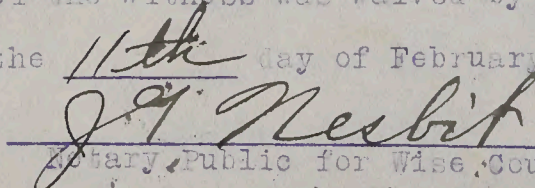
The further taking of these depositions is adjourned, to be continued at Jonesville, Virginia; at the Law offices of C. T. Duncan on Monday, February 13, 1911, between the hours of 9 A. M. and 6 p. m.

  
Notary Public for Wise County.

VIRGINIA, WISE COUNTY, to-wit,

I, J. G. Nesbit a notary public in and for the county of Wise in the state of Virginia certify that the foregoing depositions of F. M. Clarkston were taken and sworn to before me at the time and place, and for the purposes mentioned in the caption hereto annexed, and that the same were taken down in shorthand by me and afterwards transcribed and that the signature of the witness was waived by counsel.

Given under my hand this the 11th day of February, 1911.

  
Notary Public for Wise County.



*"Exhibit letter to Trustees"*

Olinger, Lee County, Virginia.

"(EXHIBIT LETTER TO TRUSTEES)"

J. G. Nesbit, Notary Public. March 8th, 1909.

Mr. E. M. Cooper, and others, Trustees,

Old School Baptist Church, at Pleasant Hill.

Gentlemen:

I find in looking over your answer to Elizabeth J. Gates and others, members of the Old School Baptist Church, that you answer in part as follows:

"Your respondent E. M. Cooper denies that they entered into any scheme of any kind, with the intention or for the purpose of defrauding and cheating the said churchmembers thereby, the old school baptist church of its property or any part thereof, but on the other hand at a meeting of the church members of the said old School Baptist Church the idea was expressed that there ought to be some person on the land, who would take care of it, preserve it from trespass or injury, and that would be able to take care of and entertain the regular minister, elected to minister to said congregation, and for this purpose and this purpose alone, at such church meeting, the proposition was made to your respondent, the said E. M. Cooper to buy a portion of said land, build on it, and take care of it, entertain the minister etc. and a resolution or order of that kind was made, directing the sale at the price of \$1000 per acre of about  $\frac{3}{4}$  of an acre of said land to Mrs. D. E. Clarkston, who proposed to convey it to your respondent, the said Cooper as soon as the deed was made to her."

Well, according to what you state in your bill in answer to the church members of your church, there is quite a difference as to the resolutions adopted by the church which you speak of in your answer than the resolutions you furnished me, which was recorded in the Clerk's Office at Jonesville along with the decree; They read something like this; (By a resolution adopted by the congregation of the Old Baptist Church on the first day June, 1907, the trustees Ira Baker, E. M. Cooper and Wm. H. H. Clark was authorized to make sale of  $\frac{3}{4}$  of an acre of the undivided one-half interest in about three and a half acres at the price of \$1000 per acre and reinvest the funds in building a proper church house on the remainder of said land. This resolution was signed by your clerk of the church and delivered to me by you on the 12th day of October, 1907, at which time I entered into a contract with you for  $\frac{3}{4}$  of an acre of the land at the price of \$1000 per acre, in which contract you agreed to convey to me, F. M. Clarkston, by deed of special

*Warrant: on which is returned 3/4 of an acre of land*



Olinger, Lee County, Virginia.

March 8th, 1909.



situated, lying and being in Lee County, Virginia, in the Crab Orchard, being a part of the Oak Grove property which was conveyed to the Old School Baptist Church and the regular church by Hiran W. Reese and Thomas G. Morris by deed dated October 30th, 1877 and recorded in Lee County Clerk's Office in Deed Book 24, page 440, etc., and in said contract you bound yourselves to procure authority from the Court to make the conveyance above-mentioned and to reinvest the proceeds thereof, pursuant to the resolution adopted by the said congregation; and you agreed to do this as soon as practical to do so and your contract is signed "Witness the following signatures and seals the day and year first above written" "Signed E. M. Cooper, seal, Wm. H. H. Clark, seal, and Ira Baker, seal, Trustees of the Old School Baptist Church of the Oak Grove Property." And further you state in your answer that you was the purchaser and admit the same in your answer of the three-fourths of an acre of land in controversy, and you, also, claim that D. E. Clarkston agreed to convey to you this three-fourths of an acre as soon as she obtained a deed from you for the same. Now, the position you are taking is in opposition to the true facts in the case, as I understand it, the resolutions are different. You told me when you delivered the resolutions to me that the words were not exactly the same, but in substance it was the same, and also as to D. E. Clarkston agreeing to re-convey the land to you as a whole or any part is a mistake, but on the 20th day of October, after I had assigned the contract I had it to you over to D. E. Clarkston and before the sale was confirmed she agreed to sell you a part of said land at the same price it cost me, and had a contract drawn up to that effect, setting forth that when she obtained a deed from the trustees for the said land in question, she agreed to convey to you, E. M. Cooper, a portion of said land, and each party was to bear their proportionally cost and attorneys fees in obtaining the title from the church, which contract she still has which has never been signed by either party. Now, I am informed that the Court has decreed that you amend your bill and make D. E. Clarkston a party defendant to the suit, and in amending your bill, I hope that you will copy the resolutions which you delivered me, which you will find at Jonesville on record, authorizing you to make the sale, as trustees, and use them in lieu of the ones you have in your bill. By so doing I don't think we will have any trouble in gaining the case. It puts you in an awkward position, having one resolution of the



church on record in the case and signed by your clerk of the church, and you setting up a different resolution of be the church supposed to be at the same meeting. I don't think you give the date of the resolution that you are banking on, but I take it to be at the same meeting. As far as the purchase of ~~xxx~~ an interest of the three-fourths of an acre, if you still want to purchase it, and will amend your bill the way I understand the facts to be according to the papers and will help pay all costs and attorneys fees in proportion to such an interest as you wish to purchase D. E. Clarkston has agreed to sell you an interest in said lands on those conditions., but if it don't suit you to amend your bill according to the resolutions that you furnished me, and also the contract which I have with you, the trustees, and we have to go ahead and defend the suit as it now stands we cannot afford to pay all attorneys fees that we may have to pay and costs and sell you said interest at the minimum price. So please look carefully over these papers, if ~~it~~ suits you to comply with the conditions set forth, you can write us and let us know and we will send you a contract signed for such interest as you may want on the above conditions.

Very truly yours,



Olinger, Lee County, Virginia.

March 8th, 1909.

"Exhibit" Letter to Trustees



FEES - J. G. Nesbit, Notary Public, Big Stone Gap, Va.

Taking depositions-  $2\frac{1}{2}$  hours at 75 cts. ----- \$1.87

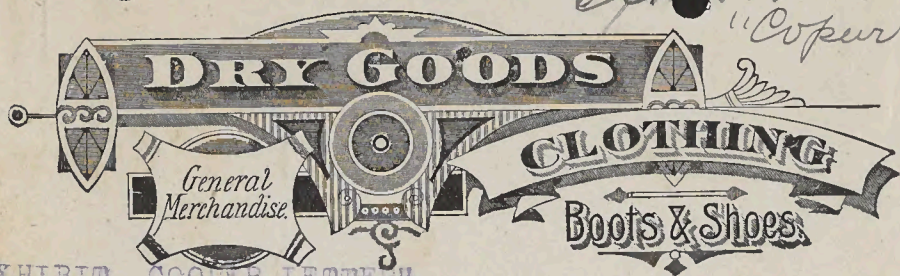
Transcribing same 2-1/2 hrs. " ----- 1.87

-----  
Total ----- \$3.74



E. M. COOPER & COMPANY,

DEALERS IN



"EXHIBIT, COOPER LETTER"

J. C. Nesbit, notary public

Keokee, Va.,

Mar 2<sup>nd</sup> 1909

Mr F. M. Clarkston Esq.  
Clinger Va R.F.D

Dear Sir

Your letter of the 26<sup>th</sup> of Feb to hand and contents in regard to our tract concerning the  $\frac{3}{4}$  of an acre of the Church Property of Courts I still want the  $\frac{1}{2}$  acre just as bad as I ever did and of course it is necessary for you to answer there bill as you are one of the defendants in the suit you can examine our answer and then answer your part of it as you see proper of course we made this deal with you in good faith believing it was the wish of the Church.



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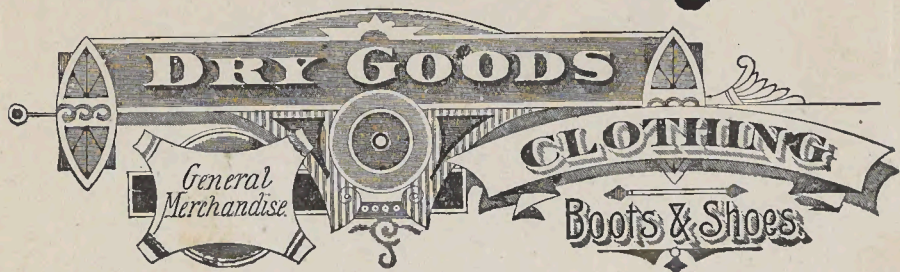
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E. M. COOPER & COMPANY,

DEALERS IN



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Keokee, Va.,

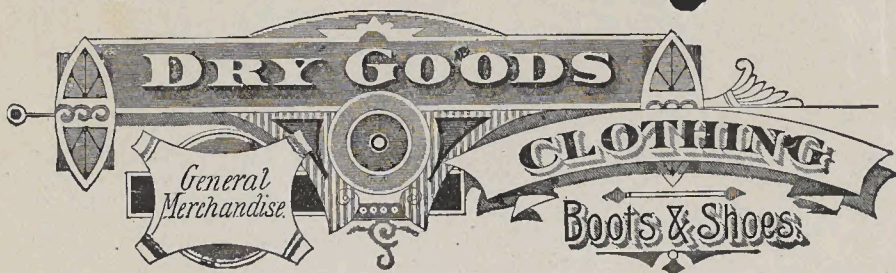
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and was the order of the church  
and would have him perfectly  
satisfactory if liars hadent  
to have put in all would  
have him right - all the church  
wants is a good church house  
and of course if we sell this  
 $\frac{3}{4}$  of an acre according to  
the decree of the Court we  
will see that they get a  
good house. as the Keokee  
Co proposed to build & certainly  
would love to have that  $\frac{1}{2}$  acre  
and do believe it is the best  
thing the church could do  
to not oppose the sale of it  
if you wish you can draw  
up a contract - and send me  
or come over and see me.



E. M. COOPER & COMPANY,

DEALERS IN



Keokee, Va.,

190

and we can consult all things  
that are connected in the case  
as you say I have already him  
to a lot of expence and expect  
to have a lot more and I think  
it is all for the well fare of  
the Oakgrove church & certainly  
wouldnt do anything that  
I thought would be against  
her wellfare. so let me

hear from you soon.

Your Friend  
E. M. Cooper



Exhibit "Copier letter"

320  
 100  
 ---  
 1170

John Deering  
 1000  
 1000

- 15 civil warrants for debt
- 15 attachments and Garnishee Process Warrants
- 10 commitments to Jail, on
- 10 Warrants of arrest



Filed Feb. 13, 1911.  
H. C. J. Ewing,  
Clerk.



The depositions of E. M. Bledsaw and others taken before me, N. I. Ardan, Justice of the Peace, in and for the County of Lee in the State of Virginia at the offices of the Stonega Coke and Coal Company in the town of Keokee on the 8th, day of February, 1911, to be read in evidence in behalf of the defendants in a certain suit in Chancery in the Circuit Court of Lee County wherein

Trustees  
E. M. Cooper et al/are plaintiffs and

J. K. P. Legg, Trustee, et al are defendants  
and on behalf of the plaintiffs in another suit pending in the said court wherein

Mary Morris et al are plaintiffs and

E. M. Cooper et al, Trustees, are defendants  
pursuant to notice hereto attached.

Present - Robert L. Pennington, of Counsel for the defendants in the first styled cause and for the plaintiffs in the second styled cause, J. C. Nowell, of counsel for the plaintiffs in the first styled cause and for the defendants in the second styled cause and F. M. Clarkston present for himself.

E. M. BLEADSAW

the first witness, of lawful age, being first duly sworn deposed and said;

Examination by Mr. Pennington

Q1 State your age, residence and occupation?

A 49 years old, residence Keokee, occupation farmer.

Q2 Are you one of the Trustees of the Missionary Baptist Church named in this cause ?

A yes.

Q3 Are you acquainted with the Morris Rees ~~Read~~ <sup>It</sup> deeded to the Old School Baptist Church and the Regular Baptist Church at this place?



A Yes sir, I am

Q4 Is it to the interest of the Missionary Baptist Church or of the Old School Baptist Church to have said lot partitioned between the two churches?

MR. NOWELL: - The foregoing question and any answer thereto is objected to in so far as the same applies to the interests of or affects the rights of the Old School Baptist Church as the witness is not a member of the Old School Baptist Church and, therefore, cannot know what the interests of said church are.

A Well, I don't see how it could be of any interest to them for to divide it.

Q5 I hand you a map showing the location and shape of the road at a point marked "Stone Monument " at the corner of the public highway; this map shows 42 feet frontage on the public road. I will ask you to state first, if you are acquainted with the road which runs by this lot?

A Yes, I am acquainted with the road that runs by it.

Q6 Is there any other public road by which this lot could be reached by the public?

A Only one that touches the lot.

Q7 Would it be practicable to partition that lot in the shape it is and do exact justice to the two churches owning the property?

MR. NOWELL:- The foregoing question and any answer thereto is objected to because the Court is the party to decide whether or not the said property is susceptible - - of the partitioning kind after having commissioners to view and survey the premises and report to the Court.

(Signed) J. C. Nowell, for plaintiff in the first



cause mentioned in the caption and for defendants in the second named cause.

A I don't hardly how that it could be, of course if there was to be a line put through there between the two churches the one on the back end would have to have the right over the other there is a mighty narrow point on this end to start in the road in case it should be.

Q8 I will ask you to file with your deposition the map referred to.

MR. NOWELL: - The foregoing question and the filing of said map is objected to because it is not proven to be a correct map of the premises in question.

A I herewith file said map as requested.

Q9 Were you present at a meeting of the Old School Baptist Church when Mrs. J. J. Gates, Mrs. J. K. P. Legg, and Mrs. Wm. Huff were turned out of the church for any cause?

A Yes sir, I was there.

Q10 What charges were brought against these people that they were turned out of the church?

MR. NOWELL: - The foregoing question and any answer thereto is objected to because immaterial and irrelevant, the Court having no jurisdiction over church proceedings or church ~~tax~~ discipline and has no right to pass upon the question as to whether they were properly or improperly excluded or turned out of said church.

A Well, I was there and all the charge that I heard was that they had, Mr. Cooper and Henry Clarkston I believe brought the charge, they could not fellowship them account they had signed an application or did sign it, I cannot tell it like it was at all.



Q11 I understand from your answer that Mr. Cooper had charged these people with having brought suit against him and had applied to them to sign a paper withdrawing from the suit and that they had refused to sign that paper, and for that reason they were turned out of the church, is that correct?

MR. NOWELL: - The foregoing question is objected to because leading and suggests to the witness the answer desired.

A It was somehow I cannot get it in my mind just exactly the words they used. It was because they would not sign that paper of something that they had caused the suit brought or that suit was brought about and they favored it and would not sign the paper they wanted signed or somehow in that shape.

Q12 Were these three people ejected or turned out of the church on that day when the matter was up for discussion there?

A They were excluded that night I think, that is my best recollection.

Q13 Were these people present; these women?

A Mrs. Gates was in the day, whether at night or not I, - she was there that day I don't recollect whether she was there that night or not.

Q14 Is it practicable for the two churches to occupy that lot for church buildings, either jointly or in separate buildings without it being partitioned?

MR. NOWELL: - The foregoing question is objected to because immaterial and irrelevant, both churches are joint owners of the lot and either has the right to apply to the Court for a partition.

A Yes, I think it would be very nice for them to occupy it jointly.



~~Q15x~~ CROSS EXAMINATION BY MR. NOWELL

X1 The Regular Baptist Church of Oak Grove or the Missionary Baptist Church of which you are now a member and one of the Trustees has conveyed its interest in said tract of land to the Keokee Coal and Coke Company, has it not?

A Yes sir, one half interest in the undivided lot.

X2 The Keokee Coal and Coke Company having re-conveyed the surface of the one half interest to be <sup>exclusively</sup> used for church purposes, has it not?

A Yes sir.

X3 Are you acquainted with the value of that strip of land per acre?

A I don't know as I am.

X4 In the event that you should lose the church house that the Keokee Coal and Coke Company is to build for your church by fire or other accident your church would have no means with which to re-build?

A The people would just have to go down into their own pockets and build them a church if anything like that should happen.

X5 And if you did not build your church then you would forfeit all of your right to the Keokee Coal and Coke Co.?

A At a certain limited time if we were not to build back we would be out of a church. In five years if we would not build a church we ought not to have one.

X6 How many members are there of your church at this place?

A I cannot answer the question, that is exactly, I think about thirty, maybe 35 is my best judgment at this time.

X7 Do you know how many members there are of the Old School Baptist Church at this place?



A No sir, I do not.

X8 Do you know the financial circumstances of the members of the Old School Baptist Church?

A I don't know that I do.

X9 Do you know the boundaries of the lot of land in controversy?

A Well, I reckon I do.

X10 Give them please?

A That is, you mean the call from the different places. I know the lot there and round there I cannot give the boundary, that is the call etc.

X11 I believe you stated in your examination in chief that this road was bounded by a public road on the West?

A On this end next to the coke ovens.

X12 Is it not a fact that this lot crosses the public road?

A In the hollow on this side of the lot at the lower corner, I don't know that I know where that corner stone is.

X13 Is it not a fact, Mr. Bledsaw, that in the event that this church lot was partitioned that a road could be had along the East side of said lot leading to the South end of the property so as to give means of egress and ingress to this property?

A Well I would think that would have to be, would have to be a road from this corner to this end of the public road of course if there were not there would be no means of getting in and out.

X14 You stated that you were present at the meeting of the Old School Baptist Church when Mrs. Gates and other members, or when charges were preferred against Mrs. Gates and other members of this congregation by E. M. Cooper et al,



do you know the rules and regulations of that church in regard to one member of the congregation suing another member of the congregation?

A Yes. They don't allow it I don't think.

X15 And was not the charge that they had accused and authorized a suit to be brought against Mr. Cooper in which they charged him with ~~xxx~~ trying to cheat and defraud the church out of its property?

A It was brought about somehow, I cannot tell just how it was brought about because I paid no attention to it it was a funny thing to me at the time.

AND FURTHER THIS DEPONENT SAYETH NOT  
SIGNATURE WAIVED

W. S. PALMER

the next witness, of lawful age, being first duly sworn,  
deposed and said:

Examination by Mr. Pennington

Q1 State your age, residence and occupation?

A 52, Keokee, Va., occupation, Land Agent.

Q2 For whom?

A The Virginia Coal and Iron Company.

Q3 Are you familiar with the proposition made by the Keokee Coal and Coke Company to the members of the regular, known as the Old School Baptist Church, which proposition was accepted in November, 1908, by Cora R. Huff, Malinda L. Legg, Susan C. Morris, Martha Morris, J. H. Morris, Lorancy Morris, Martha A. Clark, Joell Scott, Neoma Rice, Mary Morris Elizabeth J. Gates, Jane Huff, Elizabeth Daugherty, B. F.



Daugherty and Sally Daugherty?

A I am.

Q4 Were you present at the time any of these persons signed the acceptance of the Keokee Company's proposition, if so, name those whom you saw sign the paper?

MR. NOWELL: - The foregoing question and any answer thereto is objected to because the proposition of the Keokee Coal and Coke Company is addressed to the individuals of the regular or old Baptist Church and not to them as a congregation and said members have no individual or private interest in the said property and it could not have been disposed of by the individual members thereof, It would have taken an action of the church authorities as a ~~body~~ legal body to have made any ~~regular~~ or binding contract. Individual members had no right to contract to convey any portion of the said property. It belongs to the church as a body and to its successors.

A I was.

Q5 Now state who signed it in your presence?

A Mrs. J. K. P. Legg, Mrs. Wm. A. Huff, Mrs. Sally Morris, Mrs. Susana Morris and J. H. Morris.

Q6 Were they the only ones?

A The only ones I think. As to B. F. and Sally Daugherty, I sent the petition to them to sign, by mail, and it was returned to me signed by B. F. Daugherty and <sup>Ann</sup> Sally /Daugherty his wife.

Q7 On presenting the proposition to any of these members did you read the proposition and the acceptance of it to them?

MR. NOWELL: - The foregoing question is objected to for the



reasons stated in the last previous objection.

A I did.

Q8 Susan C. Morris in her deposition states in her examination as witness in this case that she signed the petition but that "They did not give us the meaning of it of what it was running into", Did you undertake to give Mrs Morris any interpretation of that paper other than what the language in the paper is?

A None whatever.

Q9 Mrs Morris ~~xxx~~ states that she does not remember whether you read the paper to her or not. I will ask you to state what your recollection is?

A I read it to her.

Q10 Martha Morris in her deposition says that ~~xxx~~ you read the paper to her and also the members who signed it. She states she did not want to sign it until she had seen the other members and would rather wait until the next meeting and that you said that she had better go ahead that there was no wrong in signing the paper. Will you state your recollection in regard to Mrs. Morris ~~xixixix~~ signing this paper?

MR. NOWELL: -The foregoing question is objected to for the reasons stated in the last objection.

A I was at the home of her son, John H. Morris, and she said she would rather see John H. before she signed the paper. He being away from home I told her she might sign the paper and if it did not meet with his approval I would scratch her name off. I met him a few minutes after on my way home and he signed it and said it was alright.

Q11 At the time these people signed and accepted the proposition of the Keokee Company named above, what was the sentiment of the people who signed that paper as members of



the Old School Baptist Church as to the acceptance of the proposition of the Keokee Company?

MR. NOWELL:- The foregoing question is objected to because immaterial and irrelevant and for the reasons stated in the preceeding objectionsto the questions propounded to this witness. .

A They were all willing to accept this proposition.

Q12 Do you know what brought about that change, did these people ever tell you why they changed their opinions?

A No, they never expressed themselves.

Q13 Are you acquainted with the church lot property in dispute in this case.

A I am

Q14 Do you know how many public roads pass this property, if so, how many and what roads?

A One public road.

Q15 Is there any other means of reaching this property except by this public road by the public without passing over the private property of other people?

A None.

Q16 Do you know how much frontage that lot has on the public highway?

A I don't know just exactly, could not give it in feet.

Q17 Is there any practical means of getting to the rear end of this property except by making a public highway on the north side?

A Not at present.

Q18 Is there not a steep embankment all the way from the back end of the lot along the right of way of the railroad leading from the railroad station at Keokee to Keokee plant?



A There is.

Q19 I hand you the deposition of T. L. Page, Clerk of the Old School Baptist Church giving a list of the member ship of that church. I will ask you to examine this list and state any persons named thereon that do not now live in this neighborhood and where they now live if you know?

A Martha Clark, lives in Wise County. Noima Rice is dead. Sally Ann Daugherty lives in Missouri. M. J. Duncan has left the State. Jacob Morris lives in Washington State. B. F. Daugherty lives in Missouri.

CROSS EXAMINATION BY MR. NOWELL.

X1 Not waiving any of the exceptions to the questions and answers of this witness in chief, nevertheless cross-examined as follows:

X1 In presenting the proposition of the Keokee Coal and Coke Company mentioned in your examination in chief to the various members of the Old School Baptist Church you were acting as the agent for Keokee Coal and Coke Company, were you not?

A In a way I was.

X2 In what way were you not acting as its agent?

A The proposition was agreed to by the Missionary Baptist church and some of the freinds in that church also solicited this.

X3 Was the concent of the Missionary Baptist Church procured in a similar way to that in which you procured the signatures of the members of the Old School Baptist Church to the same proposition?

A I think so, I did not have that petition in my possession.

X4 Who prepared that proposition?



A I think R. L. Pennington

X5 R. L. Pennington at the same time was the attorney for the Keokee Coal and Coke Company, was he not?

A He was said to be.

X6 Why did you not bring that proposition before the Old School Baptist Church as a congregation and have it act upon it instead of going around and seeing them member by member?

A The only way to get at them was the way I did it.

X7 This church had its regular meetings, did it not?

A Not always.

X8 It had had some meetings a short while before this had it not?

A Yes.

X9 It had some meetings a short time afterwards, did it not?

A I heard so.

X10 The whole proposition of the Keokee Coal and Coke Co. and the acceptances prepared for the members to sign was all done by the attorney of the Keokee Coal and Coke Company, was it not?

A I think so.

X11 You say that you procured the signatures of B. F. Daugherty and Sally N. Daugherty by sending them through the United States Mail to Missouri. I will ask you that when you submitted the proposition to B. F. Daugherty and Sally Ann Daugherty you did not represent in a letter to them that the proposition was agreeable and acceptable to all the members of the Old School Baptist Church?

A I don't think I stated it that way.

X12 Are you positive that you did not?

A I won't be positive but most all I think I stated.

X13 You had not submitted that proposition to most all of



them had you before you sent it to B. F. and S. N. Daugherty?

A No I had not submitted it to all of them but we thought we had a majority, we had 11 or a goodly number, other people procured the names and informed me of it.

X14 Did you not write to B. F. Daugherty to this effect; that all of the members of their church had accepted the proposition except T. L. Page and that he would not have anything to do with it?

A I don't think I wrote that.

X15 The Keokee Coal and Coke Company has recently sold and transferred its property at this place, Keokee, to the Stonega Coke and Coal Company, has it not?

A You mean the plant or the land?

X16 The plant and its land?

A To the Stonega Coke and Coal Company and the Virginia Coal and Iron Company.

X17 Do you know anything about the present market value of this strip of land in controversy, if so, what is it?

A I cannot tell just what it would be, only approximately.

RE-DIRECT EXAMINATION BY MR. PENNINGTON.

RQ1 I will ask you to file with your deposition the proposition of the Keokee Coal and Coke Company and the acceptances endorsed thereon which are in four several parts, marking them respectively, Palmer 1, Palmer 2, Palmer 3 and Palmer 4?

MR NOWELL:- The filing of the papers is objected to

First:- Because immaterial and irrelevant and not binding upon the congregation of the Old School Baptist Church.

Second:- The proposition of the Keokee Coal and Coke Company and the acceptance of B. F. Daugherty and Sally A. Daugherty is further object to because signed by mark with no attesting



witness.

A I herewith file said papers as requested.

AND FURTHER THIS DEPONENT SAYETH NOT  
SIGNATURE WAIVED

JAMES J. GATES

the next witness, of lawful age, being first duly sworn,  
deposed and said:

Examination by Mr. Pennington

Q1 State your residence, age and occupation?

A Keokee, 49 years old, Postmaster at Keokee.

Q2 Did you present to any of the members of the Old  
School Baptist Church the proposition of the Keokee Coal and  
Coke Company to purchase the interest of the Old School  
Baptist Church in the joint property owned by that church  
and the Missionary Baptist Church?

Mr. Nowell:- The foregoing question and any answer thereto  
is objected to because immaterial and irrelevant and because  
the signatures of the individual members is not binding upon  
the congregation of the Old School Baptist Church they having  
no individual interest in the subject matter.

A I presented the proposition to some of them.

Q3 Do you now remember who they were?

A To my wife and some others, I don't know just who now.

Q4 Did you offer any inducements or make any representations  
concerning the effect of the paper which you had presented  
them for their signatures other than the statements made in  
the proposition and the acceptance written thereto?

Mr. Nowell: - The foregoing question is objected to because



leading and for the reasons above stated in the previous objection.

A I just read the paper and said it was a chance to get us a good house or something like that.

Q5 Did you make any misrepresentation of the facts in order to get any members of that church to sign the paper?

A No sir.

Q6 What relation were you to Elizabeth J. Gates?

A She is my wife.

Q7 Is she the same Elizabeth J. Gates who was ejected from the Old School Baptist Church on account of refusing to sign a paper withdrawing the suit instituted to confirm the proposition of the Kookee Coal and Coal Company referred to above?

Mr. Nowell: - The foregoing question is objected to because there is nothing in the evidence to show that Elizabeth J. Gates was ejected from the church for the reasons stated in this question.

A She is and is the one that was turned out of the church for the reasons stated.

Q8 I will ask you to state whether or not you were present at the time she was turned out of the church?

A Yes sir.

Q9 Please state what happened on that occasion?

Mr. Nowell: - The foregoing question is objected to because immaterial and irrelevant, the church has the express right to eject or turn out or receive its own members and no court has any authority or jurisdiction over such matters.

A Well they had the question up of turning them out and they did oust her anyway they called for a movement to that effect. They were slow about it, someone made a motion



to lay it over until next meeting and some objected and said it had to be done now as I remember and finally someone made a motion to that effect and they went ahead and turned her out.

Q10 What was the reason assigned for turning them out of the church?

Mr. Nowell:- The foregoing question and any answer thereto is objected to because immaterial and irrelevant. As above stated each church has sole and express jurisdiction over its members.

A I think that Mr. Cooper alleged that she had accused him of trying to cheat and defraud the church in a petition that she had signed, if I understand it there was no such language in it, the petition.

Q11 Had not Mr. Cooper presented a paper for your wife to sign?

A She told me he had.

Mr. Nowell: - The foregoing answer is objected to because heresay.

Q12 Was not that paper talked of in the meeting?

A Yes, it was talked of in the meeting, I did not read the paper.

Q13 Please state whether, in your opinion it would be to the interest of either one of the churches, either the church to which your wife belonged or the Missionary Baptist Church to partition the church lot property?

Mr. Nowell:- The foregoing question and any answer thereto in so far as it affects the rights and interest of the Old School Baptist Church is objected to because the witness is not a member of the Old School Baptist Church and cannot, therefore, be acquainted with its interests, and secondly



because immaterial and irrelevant either of the two churches having the right if it sees proper to have the land partitioned whether it is for or against its own interests.

A I believe it would be against the interest of both churches.

Q14 How long have you lived in this neighborhood?

A Something like 33 years along there somewhere in this -- in Graborchard.

Q15 Are you acquainted with all the members of both churches?

A I don't know that I am acquainted with all but with some of them of both churches.

Q16 Are you acquainted with the people generally in and about Keokee?

A Especially the old settlers I am, the natives here.

Q17 Are you acquainted with the lot in question?

A Yes sir, I know the piece of ground.

Q18 Is there any other road leading to or by this property except the one road on the north end of the property?

A That's the only public road there is.

Q19 Are you acquainted with the rules of the Old School Baptist Church to which your wife belongs?

A I can't say that I am.

Q20 Did you not have sufficient reasons to beleive that your wife was turned out of that church because she would not sign the paper withdrawing the suit that had been brought to confirm the Keokee proposition, and in order to aid Mr. Cooper in serving his own personal interests in procuring title to a part of that lot?



Mr. Nowell:- The foregoing question is objected to because directly leading, suggests the answer sought and because the witness has already said that he did not know what the rules governing said church are.

A Well I firmly believe that is why she was turned out because she was opposed to the sale of that land, 3/4 of an acre

Q21 Do you not further believe from the action of the church on the night she was turned out that the motion was made and practically forced upon the members of the church by Cooper and the pastor?

A I took it that way, they were both very anxious and would not quit until it was done. They was sometime getting the motion.

Q22x CROSS EXAMINATION BY MR. NOWELL.

X1 You said in your examination in chief that the paper your wife signed and the one Mr. Cooper objected to and wanted her to withdraw did not charge Cooper with trying to cheat and defraud the church. Is it not a fact that she and other members of the church, the Old School Baptist Church, did file a bill in the Circuit Court of Lee County, Va. against E. M. Cooper and the other Trustees of the Old School Baptist Church in which they specifically charged that E. M. Cooper was trying to cheat and defraud the church out of its property, and is that not one of the bills that is involved in this controversy?

A Well, I don't know whether it is or not, anyhow she told Mr. Cooper there when they was trying to get her to retract that she did not accuse him of defrauding the church she did not want the land sold.

X3 What is that tract of land, located as it now is reasonably worth without any incumbrances on it?

A I am not able to say what it is worth I don't know



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what it could be sold for.

X3 Is it worth \$1,000.00 per acre?

A Yes sir I would give more than that for the front end of it.

X4 Taking it all as a whole is it worth \$1,000.00 per acre?

A Yes, it is worth more than that I think.

X5 How much do you think it would be worth per acre or as a whole?

A The only thing I could be the judge by is by some I have bought, it would be worth at least \$5,000.00.

X6 You mean the whole lot?

A Yes sir, the whole tract, and I think worth more.

X7 Don't you think the whole tract would be worth \$7,000.00 or \$8,000.00?

A Well I don't know, there is such a little frontage to the lot I am not prepared to say what but I believe \$5,000.

X8 If you believe the tract of land as a whole is worth more than \$5,000.00 how do you arrive at your conclusion that it would be to the interest of the Old School Baptist Church to convey their 1/2 interest in this tract of land to the Keokee Coal and Coke Company for a church building of \$1,500.00 in value and have all the rights of the church taken from it except the mere right to hold the surface as a place of worship?

A It was donated, I understand for church purposes only and I feel like that was what it <sup>ought</sup> ~~xxx~~ to be held for and for that reason I think all they should want, and I understand they are to be responsible for any damage to the surface, was the surface. That's the reason I think so.

X9 Suppose this shurch should lose its building by fire or some other calamity with its land gone from it merely in the church building and no right upon said land except



the bare right to use it as a place of worship, how do you think this little congregation of the Old School Baptist Church at this place would ever be able to have another church?

A Well there is more than one means, they could insure it.

X10 Insurance costs money in the way of premiums, does it not?

A Yes, but it is a safeguard.

X11 And that premium would have to be paid so long as they had a church building on it. Do you know what the rate of insurance would be on a church building located there?

A No, I do not know just what the rate would be.

AND FURTHER THIS DEPONENT SAYETH NOT  
SIGNATURE WAIVED.

JAMES K. P. LEGG

the next witness of lawful age, being first duly sworn,  
deposed and said:

Examination by Mr. Pennington.

Q1 State your age, residence and occupation?

A I was born the second day of November 1844, I have been farming along some ever since I was big enough, reside at Keokee.

Q2 How long have you lived in the neighborhood of Keokee?

A I was about 4 years old when I come here.

Q3 Ever since you were four years old?

A Yes sir, I was 66 last November.

Q4 Are you acquainted with the country around about Keokee and  
~~xxxxxxx~~ the people of this neighborhood especially the native residents?



A Yes sir.

Q5 Are you a member of any church, if so, what church?

A Missionary Baptist.

Q6 At Pleasant Hill?

A Yes.

Q7 Are you one of the Trustees of the Pleasant Hill Regular Baptist Church?

A Yes.

Q8 Are you acquainted with the lot owned jointly by the Missionary Baptist Church and the Old School Baptist Church at Keokee?

A Yes.

Q9 How long have you known this lot?

A Ever since it was a house put on it for church property and school property. In fact I have knew the place ever since I come here.

Q10 How many members belong to the Missionary Baptist Church at this place?

A There was 35 but they are scattered now, some are dead.

Q11 Do you hold any official position in that church?

A Yes sir.

Q12 You are clerk, are you not?

A Yes sir, clerk.

Q13 There is a suit here pending by Cooper et al to have partitioned the ~~xxx~~ property owned jointly by the Missionary Baptist Church and the Old School Baptist Church. Please state whether or not it is to the interest of the Missionary Baptist Church or the Old School Baptist Church to have this done and state your reasons therefor?

Mr. Nowell:- The foregoing question and any answer thereto in so far as it affects the interests or rights of the Old



School Baptist Church is objected to because the witness not being a member of said church he has no interest in common with said church and has no right to speak as to what its interests are. It having certain legal rights it has the right to have said rights enforced whether it would be for or against its interests.

A I think it would be detrimental to the interests of either one from the fact that the two churches was organized at this place before that property was deeded to it and the men that deeded it made a gift of it personally and it was deeded as joint property, I think it would be better for the interests advantage and wellfare of both churches to get together and build a house jointly.

Q14 Is there a joint church building on the property now?

A There is kind of a shack there. I could give other reasons I think it would be injurious to both denominations, but I might not be to the point, we held a association there and we did not think there was sufficient grounds around the church and we secured a place of Ballard Thurston on the other hill just away from there in order to give room so we could hold the business meeting at the old house and have preaching and other exercises at this other place. Now it's narrowed down from 5 to about 3 acres and that property over here that we hear is taken in by the company and don't seem to be in condition to hold any large assembly of people and to take off 3/4 of an acre more or divide half and half would narrow it down so small that neither one of those churches could hold an association and hold it on their own property it would crowd them up too much. About two acres, Mr. Nowell, were took for the school, the cut takes that up and ~~they~~ they do not havr that to occupy. To have it jointly both could



use it but to have it divided then they would have to beg.  
I thought it best to hold it as it was.

Q15 E. M. Cooper, W. H. Clark, Ira Baker, Trustees of the Old School Baptist Church of Oak Grove property entered into a contract dated October 12th, 1907 to sell off 3/4 of an acre of the church lot property on the north end thereof adjoining Jesse Moore's property for the sum of \$750.00. I will ask you to state if 3/4 of an acre of that land were laid off on the north end how the church people could get to the remainder of the lot without passing over the private property of other people?

A The could not do it. They could not get there at all without passing over private property.

Q16 What relation are you to Elizabeth Gates, Cora Hull and Malinda Legg?

A Mrs Gates and Mrs Hull are my daughters and Mrs Legg my wife

Q17 Were you present at the meeting of the Old School Baptist Church when these members were turned out of that church?

A Yes sir.

Q18 Please state what reasons were assigned for excluding them from the church?

A The claim was that they had signed a paper that was contrary to an action that the Trustees and pastor had agreed upon and asked her to withdraw from that and sign one they had, they refused were all the grounds I heard.

Mr. Nowell:- The foregoing question and answer is objected to because immaterial and irrelevant the church having sole authority over the action and conduct of its members both as



receiving into and dismissing from the church and no court of this commonwealth has jurisdiction over the matter involved

Q19 Were you ever a member of the Old School Baptist Church?

A Yes sir.

Q20 Are you acquainted with the rules and regulations of that church?

A I think I am

Q21 Had your wife and two daughters by their action in bringing the suit which they with others were prosecuting to confirm the Keokee proposition violating the rules of that church to such an extent as to justify the church in excluding them from it?

A No sir.

Q22 What was the object in getting rid of your wife and daughters from the church, if you know, by Mr. Cooper and Mr. Robinet?

A We supposed they wanted the 3/4 of an acre, they took a step one time and never let us know anything of it to get a deed from Skein we knew nothing about it until the surveyors was on hand.

Q23 Do you think it practicable to partition that lot and give to each church as many advantages as each would have by owning the property jointly?

A I think not.

CROSS EXAMINATION BY MR. NOWELL.

X1 Have you ever read the bill that was filed by your wife and others against Cook, E. M. Cooper and other Trustees of the Old School Baptist Church?

A No sir.



X2            You don't know what allegations are made against Mr. Cooper?

A            No I never tried to get any information about it.

X3            Is it not contrary to the rules of the Old School Baptist Church for one member to go into law with another member charging that member with trying to cheat and defraud?

A            Well I don't know about that, I suppose they don't want to sue more than they can help but I don't think they are tied right down because I knew them to do so and call each other pretty bad names and still remain members.

X4            Is it not contrary to the rules of that church for members to go to law without trying to settle their differences without it?

A            They have a rule to that effect but many times they do not carry it out.

X5            What is the value of that property owned jointly by the two churches, the Old School Baptist Church and the Missionary Baptist Church?

A            I don't know. It is not worth any more now than it was when it was first deeded as far as their interests would be concerned because it was deeded as church property.

X6            The deed speaks for itself as to that, but laying aside any question as to the right of churches, suppose it was owned by an individual located as it is what would that property be reasonably worth?

A            It would be worth more, certainly, as personal property.

X7            How much do you think it would be worth?

A            If old man Morris owned it and Rees and their heirs today I think it would be worth \$5,000.00 as an estate to them.



X8 Would not it be worth a great deal more than that?

A Well I would not want to give no more than that.

X9 But you think it would be worth at least \$5,000.00?

A I think so according to the way land is valued around here.

X10 The object of the Keokee Coal and Coke Company in getting title to that land was to prevent any part of it from going into the hands of an individual, was it not, and keep down competition?

A I don't know their personal interests but the two churches were to hold it as church property.

X11 It would slip their hands if deeded to the Keokee Coal and Coke Company?

A I don't know the way it was deeded.

X12 Would mining that property be using it for church ~~xxxxxxx~~ purposes you think?

A Yes sir.

X13 How?

A Building two houses worth \$1,500 each or one worth \$2,500.00 for a church. The coal could never be reached by either church and no other individual exeepr the Keokee Coal and Coke Company.

X14 If both churches or either had the right to sell that property they could get a great deal more for it than the Keokee Coal and Coke Company is giving for it?

A Well they might get more for the surface, the coal would be no good to them.

X15 The arrangement proposed by the Keokee Coal and Coke Company ~~is~~ would forever bar that property, the surface of that property to be used for anything but church purposes by these two churches?

A Yes sir, that was the intention of the other, I



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wrote the other deed and know that is a fact.

AND FURTHER THIS DEPONENT SAYETH NOT  
SIGNATURE WAIVED.

It is agreed that the foregoing depositions shall be read  
without formal certificate.



E. M. Cooper

vs.

J. K. P. Legg

Pursuant to an order of the Circuit Court of Lee County dated 14th of Sept 1911. We the undersigned commissioners, L.M. Carmical, J.F. Albert, D.C. McClure, A.K. McClure and W.E. Wynn have partitioned the lot of land in the bill & proceedings mentioned in above Styled cause according to the following plat and report.

We first laid off and assigned to the Old School Baptist Church or its assigns Lot No. 1, which we consider equal in value to one half the whole property and bounded as follows-Beginning at (A) a stake on the Rail Road right of way and on the south line of the original property we are partitioning- thence with said line N 86 E 85 feet to (B) a stone; (original corner) thence with the original east line N 6 $\frac{1}{2}$  E 390 feet to (c) a stake and pointers; thence leaving original line and running at right angles thereto about S 83 $\frac{1}{2}$  W 210 feet to a stake on the R.R. right of way and with it 420 feet to the beginning, containing 1 60/100 acres more or less.

We have laid off and assigned to the Missionary Baptist Church or its assigns Lot No. 2 bounded as follows-Beginning at (D) the North West corner of Lot 1 thence ~~thence~~ with its North line N 83 $\frac{1}{2}$  E 210 feet to (C) a stake and pointers on original East line thence with said line N 6 1/2 W 360 feet to the original North East corner thence S 82 W 42 feet to the R.R. right of way thence with it S 28° 20' W 120<sup>-6/10</sup> feet thence with 12° curve of s'd right of way about 259 feet to the beginning containing 1 4/10 acres more or less.

After making said partition we then laid off and out of Lot No. 1 ( the land assigned to the old School Baptist Church) the following described lot or parcel to be deeded to D.E. Clarkston & E.M. Cooper-Beginning at (D) a stake on the R.R. right of way, the North West corner of said Lot 1; thence with line of same N 83 $\frac{1}{2}$  E 210 feet to (C) a stake and pointers on original east line and with it S 6 $\frac{1}{2}$  E 130 feet to (E) a stake and pointers; thence at right angles to said original east line or about S 83 $\frac{1}{2}$  W 215 feet to (F) Rail Road right of way and with it a 12° curve 131 feet to the beginning Containing nearly 1/14 acres less than



3/4 acres-the shortage in acreage being agreed upon by E.M.Cooper in lieu of the full quantity in a more inconvenient location, which we had to make if the full 3/4 acres was cut off without damage to the old school Baptist Church lot for Church purposes and which we think has not been injured for said purpose.

In making these various assignments it is with the understanding that a road way is to be kept open (20) twenty feet wide along the east line and through the entire length of the last named  $\frac{3}{4}$  acre tract and also the entire length of Lot No 2 as indicated and laid off on the accompanying map

Report Submitted

L.M.Carmical

A.K.McClure

J.F.Albert

W.E.Wynn

D.C.McClure

A copy,

Teste: J. O. Edds ,

Clek.



ADDENDA.

To the Circuit Court of Lee County; Va.

Hon. Sir: Our attention ~~xxxx~~ being called to an error of measurement in lines of Lot No. 1, as described in commissioners report filed Nov 22 1911, in the case of E. M. Cooper, et al vs. J.K.P. Legg et al. We have gone upon the grounds and remeasured said lines and herewith report the following corrections.

The second line of Lot No. 1, should read: N 6 1/2 W 430 feet (instead of 390) to C a stake and pointers, and the fourth should read: 463 feet (instead of 420) to the beginning.

And in the subdivision of Lot No. 1, the second line of the Clarkston and Cooper lot should read: S 6 1/2 E 170 feet (instead of 130) to E a stake and pointers; and the fourth should read 174 feet (instead of 131) to the beginning.

We regard the corrections of ~~of~~ no vital importance, as the division lines between each parcel were already well established and marked; ~~and~~ but ~~xxxxxx~~ Mr. Coopeer thought it best, whilst all things were fresh, that ~~the~~ the corrections be made, as his and Clarkston's lot alone was in any way effected; there lot gaining eight-hundredths of an acre more than they had purchased, which we left undisturbed as Mr. Cooper guaranteed the ~~the~~ future purchase thereof.

Respectfully submitted, this the 23, of Aug. 1913.

L. M. Carmical  
W. E. Wynn } Commissioners  
D. C. Mehur }



( A COPY ).

Circuit Court of Lee County, Virginia.

Petition of E. M. Cooper, William H. H. Clark, and Ira Baker,  
Trustees of the Old School Baptist Church of the Oak Grove Property.

TO THE HONORABLE H.A.W. SKEEN, JUDGE OF THE CIRCUIT COURT OF LEE  
COUNTY, VIRGINIA:

Your petitioners, E. M. Cooper, W.H.H. Clark and Ira Baker, Trustees of the Old School Baptist Church of the Oak Grove Property, respectfully state unto the Court as follows:

That by deed dated October 20th, 1877, of record in the Clerk's Office of Lee County, Virginia, Hiram W. Reese and Thomas J. Morris conveyed a certain tract or parcel of land lying and being in the Crab Orchard, in Lee County, Virginia, containing five (5) acres, more or less, unto the Pleasant Hill Regular Baptists and the Old School Baptists Church, and the School Board of Lee County, or the Trustees of the said two churches and the said school board, respectively; that the said property was conveyed to the Trustees of the said two churches and the said School Board in fee simple; that the said two churches and the said School Board have made a partition of the said land by virtue of which a portion thereof was assigned and conveyed to the said School Board, and the remainder thereof, containing three and one-half (3-1/2) acres is now owned by the said two churches in equal undivided ownership; that the said remainder owned by the said two churches contains three and one-half acres, and that this would make the said Old School Baptist Church own an amount equal to one and three fourths acres; that this is more than is needed for the purposes of the said Old School Baptist Church; that the said Old School Baptist Church desires to build a church building thereon for



its purposes; that it is largely without funds to build the said building, and has determined to sell three fourths of an acre of its interest in the said property for the purpose of raising money to build the said Church building; that at a meeting of the congregation of the said Old School Baptist Church, held at Oak Grove in the Crab Orchard in Lee County, Virginia, on the 1st day of June, 1907, the said congregation passed a resolution authorizing your petitioners, who are the duly appointed Trustees for the said Church, to sell an interest in the said property equal to three fourths of an acre, at the rate of One Thousand Dollars (\$1000.00) per acre, which would be Seven Hundred and Fifty Dollars (\$750.00) for the said three fourths of an acre interest; and further authorized your petitioners to take all such legal steps as might be necessary to accomplish said purpose, and authorized and directed your petitioners to use the proceeds from the said sale in building a proper church house on the remainder of the said property, all of which will more fully appear by reference to a copy of the resolution passed at the said meeting which is filed herewith as a part hereof marked "Exhibit A" ;

That your petitioners have negotiated a sale of the said interest in the said property to one D. E. Clarkston, of Lee County, Virginia, for the sum of Seven Hundred and Fifty Dollars (\$750.00), to be paid in cash upon the delivery of a proper deed for the said interest in said property; that the said property is as yet undivided between the said two churches; but it is the desire of the Congregation of the said Old School Baptist Church, and of your petitioners, to lay off an aliquot part of the said property on the Northern end of the said land, adjoining the Public Road, and also, adjoining the Jesse Moore tract of land, containing three fourths of an acre, and to sell the same to the said D. E. Clarkston; and it is the further desire of the said congregation and your petitioners, that when the said property shall come to be divided between the said two churches,



that the vendee of your petitioners, the said D. E. Clarkston may be assigned the said three fourths of an acre, for and on account of a part of the interest of your petitioners in and to the said property;

Your petitioners further state that the said D. E. Clarkston is willing to purchase the said three fourths of an acre, and run the risk of the same being assigned to her whenever the said partition may take place, provided of course that if the said particular three fourths of an acre should not be assigned to her, then she is to have an equal amount, quantity and quality considered, assigned to her out of the balance of the said property;

WHEREFORE, your petitioners pray that the Court enter an order authorizing your petitioners to lay off a boundary of the said land on the Northern end thereof, adjoining the Public road, and, also, adjoining the Jesse Moore tract of land, containing three fourths of an acre, and to sell and convey the same to the said D. E. Clarkston for the sum of Seven Hundred and Fifty Dollars (\$750.00) in cash; the deed of conveyance to contain a further provision that if, for any reason the said three fourths of an acre should not be laid off and assigned to the said D. E. Clarkston, when the said property comes to be divided, then she is to be entitled to, and is to have such other part of the whole of the said property assigned to her, as will equal in value, quantity and quality considered, the said three fourths of an acre; and further authorizing your petitioners to use the said proceeds from the sale of the said three fourths of an acre in the building of a proper church house on the remainder of the said property;

And your petitioners will ever pray;

E. M. Cooper,  
W. P. H. Clark,  
Ira Baker,

Trustees,

By Counsel,

[Signed]

Bullitt & Kelly,

Attorneys.



At a meeting of the Old Baptist Church, held at Oak Grove Church in the Crab Orchard, Lee County, Virginia, on the 1st day of June, 1907, the following resolution was on motion, unanimously adopted.

Whereas, the Church is the owner of an undivided interest in three and one-half (3-1/2) acres of land being the residue of the land conveyed to it and the Regular Baptist Church by Hiram W. Reese and Thomas G. Morris by deed dated the 30th day of October, 1877, which church property is known as "Oak Grove" and, whereas said property is more than is sufficient for its use; and, whereas said congregation desires to build it a church House on a part of said property, and for that purpose desires to sell a portion of said property. Now, therefore, be it resolved, that William L. H. Clark, E. M. Cooper, and Ira Baker, Trustees for said Old School Baptist Church be, and they are hereby authorized and empowered to sell and convey 3/4 of an acre interest in said property on the Northern end of said land adjoining the Public Road and also adjoining the Jesse Moore tract of land, at the rate of One Thousand (\$1000.00) Dollars per acre, and for that purpose is authorized to take such legal steps as may be necessary, and they are hereby authorized and directed to use the proceeds from the sale thereof in building a proper church house on the remainder of said property.

Signed

T. L. Page,  
Clerk.



CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

Ex-Parte Petition of E.M. Cooper, William H.H. Clark and Ira Baker, Trustees, for the OLD SCHOOL BAPTIST CHURCH OF THE OAK GROVE PROPERTY.

O R D E R ;

This day came E.M. Cooper, W.H.H. Clark and Ira Baker, Trustees of the Old School Baptist Church of the Oak Grove Property, and filed their petition in vacation, praying that the Court enter an order authorizing them to sell a portion of the property owned by the said church in the Crab Orchard, in Lee County, Virginia, and more fully described in said petition; and further authorizing them to use the proceeds of the sale of the said property in building a proper church house on the remainder of the said property; and the Judge of the Court being satisfied, from the evidence produced before him, that it is the wish of the Congregation of the said Old School Baptist Church, that the said part of the said property should be sold and the proceeds used as before stated; it is, therefore, considered by the Court, and so ordered, that the said Trustees be and they are hereby authorized to lay off a part of the said property on the Northern end thereof, adjoining the Public Road, and, also adjoining the Jesse Moore tract of land, containing three fourths of an acre, and to sell and convey the same to D. E. Clarkston, upon the payment by her to them of the sum of Seven Hundred and Fifty Dollars (\$750.00); the said deed of conveyance to further provide, that if upon partition of the said land between the said Old School Baptist Church and the Pleasant Hill Regular Baptist Church, the said portion of the said land so conveyed to the said D. E. Clarkston should not be assigned to her, then she is <sup>to be</sup> entitled to have assigned to her enough land out of the said tract, quantity and quality considered, to equal the value of the said three fourths of an acre.



And the said Trustees are further authorized and directed to use the proceeds from the said sale in building a proper church house upon the remainder of the said property.

To the Clerk of the Circuit Court of Lee County.

Enter the above Order, November 2nd, 1907.

[Signed]

H. A. W. Skeen,

Judge.



E. M. Cooper, et als Trustees  
vs Exhibit A.  
J. H. P. Legg et als. Trustees,

Exhibit A filed  
with the answer of  
D. C. Clackston



Exhibit A. B.

( A COPY)

THIS CONTRACT made and entered into October the 12th, 1907, by and between W. H. H. Clark, L. M. Cooper and Ira Baker, Trustees of the Old School Baptist Church for the Oak Grove Church Property, in the Crab Orchard, Lee County, Virginia, parties of the first part and F. M. Clarkston ----- parties of the second part,

WITNESSETH: that for an in consideration of the sum of Seven Hundred and Fifty Dollars (\$750.00) cash in hand paid on the delivery of a proper deed of the property hereinafter contracted; the said parties of the first part have bargained and sold and by these presents doth agree to convey by deed of special warranty an undivided  $\frac{3}{4}$  of an acre of land, situated, lying and being in the County of Lee, State of Virginia, in Crab Orchard, being a part of the OAK GROVE property which was conveyed to the Old School Baptist Church and the Regular Church by Hiram W. Reese and Thomas G. Morris, by deed dated the 20th day of October, 1877, and recorded in Lee County Clerk's office in Deed Book 24 page 140. The three fourths of an acre hereby sold is to be laid off of the North End of said Church Property and adjoining the Jesse Moore property; said parties of the first part being authorized to make said sale by a resolution adopted by the congregation of the Old School Baptist Church on the 1 day of June, 1907; said parties first part agree and bind themselves to procure authority from the court to make the conveyance above mentioned and to reinvest the proceeds thereof, pursuant, to the resolution adopted by said congregation, and that they agreed to do this as soon as is practical to do so.

Witness the following signatures and seals the day and year first above written.

(Signed)

E. M. Cooper (Seal)

Wm. H. H. Clark (Seal)

Ira Baker (Seal)

Trustee of  
the Old School  
Baptist  
Church of the  
Oak Grove  
Property.



G. W. Cooper, et als. Trustees,  
V { Exhibit B  
J. H. P. Leggett als. Trustees,

62  
Exhibit B filed  
with the answer of  
D. C. Clarkston.

For value received I assign the within contract over to D. C.  
Clarkston.

(Signed) F. H. Clarkston.



To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

The undersigned members of the congregation of the Old School Baptist Church, at Oak Grove Church, will respectfully represent and show unto your honor that they have been shown and had read to them a bill in Chancery filed in the name of Mary Morris, Elizabeth J. Gates, Jane Huff, Elizabeth Daugherty, Cora R. Huff, Malinda L. Legg, Susan C. Morris, Martha Morris, J. H. Morris, B. F. Daugherty, and Sallie Daugherty, members of said congregation of the Old School Baptist Church as aforesaid praying among other things that the Trustees of said Church be compelled to accept a proposition made to the Congregation of said Church by the Keokee Coal & Coke Company, by which said Keokee Coal & Coke Company propose to become the owners of all the coal and minerals on the land mentioned in said bill, and in consideration of which, said company proposes to erect on said land a church at a cost of not less than \$1500.00 for the congregation of said Old School Baptist Church and to convey with the said church when erected to said congregation or its Trustees, the surface of said land to be used for church purposes alone.

Your undersigned petitioner most earnestly protests against such course and state to your honor that they desire said property to be partitioned in accordance with the prayer of the bill which has been filed in your honors court by E. M. Cooper, Wm. H. H. Clark, and Ira Baker, Trustees of said Old School Baptist Church at Oak Grove Church. And in this connection they desire to state that said property is very valuable and that if put on the market it would perhaps bring \$3000.00 to \$5000.00 per acre, and your petitioners are not willing to give to the Keokee Coal & Coke Company this valuable property for the mere building of a church house on the said property. Your petitioners file herewith and as a part hereof the petition or bill in Chancery



filed by said Mary Morris and others, the members of said Congregation first above mentioned, and state to your honor that they have examined said bill with great care and ~~they~~ in no way endorsed, or agree to the statements therein made, but protest against them as being an unfair statement of the matters therein attempted to be stated.

Respectfully.

M. J. Duncan  
D. C. Eder  
Melvina Morris  
Rebecca J. Brown  
- Joel W. Flannery  
J. H. Morris  
Susan C. Morris  
Mary Morris  
Jane Huff  
Joel Scott  
Elizabeth Daugherty  
Ida Morris  
Martha Morris  
E. M. Cooper Trustee  
Wm. H. H. Clark Trustee  
Isa Baker Trustee



Exhibit No. 1  
with answer of  
E. M. Cooper et al

*[Faint, illegible handwritten notes in blue ink, possibly bleed-through from the reverse side of the page.]*



*Clarkston Exhibit No. 2*

( A COPY )

THIS CONTRACT made and entered into October the 12th, 1907, by and between W. H. H. Clark, E. M. Cooper and Ira Baker, Trustees of the Old School Baptist Church for the Oak Grove Church Property, in the Crab Orchard, Lee County, Virginia, parties of the first part and F. M. Clarkston ----- parties of the second part,

WITNESSETH: that for an in consideration of the sum of Seven Hundred and Fifty Dollars (\$750.00) cash in hand paid on the delivery of a proper deed of the property hereinafter contracted; the said parties of the first part have bargained and sold and by these presents doth agree to convey by deed of special warranty an undivided  $\frac{3}{4}$  of an acre of land, situated, lying and being in the County of Lee, State of Virginia, in Crab Orchard, being a part of the OAK GROVE property which was conveyed to the Old School Baptist Church and the Regular Church by Hiram W. Reese and Thomas G. Morris, by deed dated the 30th day of October, 1877, and recorded in Lee County Clerk's office in Deed Book 24 page 440. The three fourths of an acre hereby sold is to be laid off of the North End of said Church Property and adjoining the Jessee Moore property; said parties of the first part being authorized to make said sale by a resolution adopted by the congregation of the Old School Baptist Church on the 1 day of June, 1907; said parties first part agree and bind themselves to procure authority from the court to make the conveyance above mentioned and to reinvest the proceeds thereof, pursuant to the resolution adopted by said congregation, and that they agreed to do this as soon as is practical to do so.

Witness the following signatures and seals the day and year first above written.

|          |                        |                |
|----------|------------------------|----------------|
| (Signed) | E. M. Cooper, (Seal)   | Trustee of     |
|          |                        | the Old School |
|          | Wm. H. H. Clark (Seal) | Baptist        |
|          |                        | Church of the  |
|          | Ira Baker (Seal)       | Oak Grove      |
|          |                        | Property.      |



Clarkston Exhibit  
No. 2. filed with the  
answer of  
D. E. Clarkston

For value received I assign the within contract over to D.E.  
Clarkston.

(Signed) F.M. Clarkston.



*Clackson Exhibit No. 3.*

( A COPY ).

Circuit Court of Lee County, Virginia.

Petition of E. M. Cooper, William H. H. Clark, and Ira Baker,  
Trustees of the Old School Baptist Church of the Oak Grove Property.

TO THE HONORABLE H. A. W. SKEEN, JUDGE OF THE CIRCUIT COURT OF LEE  
COUNTY, VIRGINIA:

Your petitioners, E. M. Cooper, W. H. H. Clark and Ira Baker, Trustees of the Old School Baptist Church of the Oak Grove Property, respectfully state unto the Court as follows:

That by deed dated October 30th, 1877, of record in the Clerk's Office of Lee County, Virginia, Hiram W. Reese and Thomas G. Morris conveyed a certain tract or parcel of land lying and being in the Crab Orchard, in Lee County, Virginia, containing five (5) acres, more or less, unto the Pleasant Hill Regular Baptists and the Old School Baptists Church, and the School Board of Lee County, or the Trustees of the said two churches and the said school board, respectively; that the said property was conveyed to the Trustees of the said two churches and the said School Board in fee simple; that the said two churches and the said School Board have made a partition of the said land by virtue of which a portion thereof was assigned and conveyed to the said School Board, and the remainder thereof, containing three and one-half ( $3\frac{1}{2}$ ) acres is now owned by the said two churches in equal undivided ownership; that the said remainder owned by the said two churches contains three and one-half acres, and that this would make the said Old School Baptist Church own an amount equal to one and three fourths acres; that this is more than is needed for the purposes of the said Old School Baptist Church; that the said Old School Baptist Church desires to build a church building thereon for



its purposes; that it is largely without funds to build the said building, and has determined to sell three fourths of an acre of its interest in the said property for the purpose of raising money to build the said Church building; that at a meeting of the congregation of the said Old School Baptist Church, held at Oak Grove in the Crab Orchard in Lee County, Virginia, on the 1st day of June, 1907, the said congregation passed a resolution authorizing your petitioners, who are the duly appointed Trustees for the said Church, to sell an interest in the said property equal to three fourths of an acre, at the rate of One Thousand Dollars (\$1000.00) per acre, which would be Seven Hundred and Fifty Dollars (\$750.00) for the said three fourths of an acre interest; and further authorized your petitioners to take all such legal steps as might be necessary to accomplish said purpose, and authorized and directed your petitioners to use the proceeds from the said sale in building a proper church house on the remainder of the said property, all of which will more fully appear by reference to a copy of the resolution passed at the said meeting which is filed herewith as a part hereof marked "Exhibit A" ;

That your petitioners have negotiated a sale of the said interest in the said property to one D. E. Clarkston, of Lee County, Virginia, for the sum of Seven Hundred and Fifty Dollars (\$750.00), to be paid in cash upon the delivery of a proper deed for the said interest in said property; that the said property is as yet undivided between the said two churches; but it is the desire of the Congregation of the said Old School Baptist Church, and of your petitioners, to lay off an aliquot part of the said property on the Northern end of the said land, adjoining the Public Road, and also, adjoining the Jessee Moore tract of land, containing three fourths of an acre, and to sell the same to the said D. E. Clarkston; and it is the further desire of the said congregation and your petitioners, that when the said property shall come to be divided between the said two churches,



that the vendee of your petitioners, the said D. E. Clarkston may be assigned the said three fourths of an acre, for and on account of a part of the interest of your petitioners in and to the said property;

Your petitioners further state that the said D. E. Clarkston is willing to purchase the said three fourths of an acre, and run the risk of the same being assigned to her whenever the said partition may take place, provided of course that if the said particular three fourths of an acre should not be assigned to her, then she is to have an equal amount, quantity and quality considered, assigned to her out of the balance of the said property;

WHEREFORE, your petitioners pray that the Court enter an order authorizing your petitioners to lay off a boundary of the said land on the Northern end thereof, adjoining the Public road, and, also, adjoining the Jesse Moore tract of land, containing three fourths of an acre, and to sell and convey the same to the said D. E. Clarkston for the sum of Seven Hundred and Fifty Dollars (\$750.00) in cash; the deed of conveyance to contain a further provision that if, for any reason the said three fourths of an acre should not be laid off and assigned to the said D. E. Clarkston, when the said property comes to be divided, then she is to be entitled to, and is to have such other part of the whole of the said property assigned to her, as will equal in value, quantity and quality considered, the said three fourths of an acre; and further authorizing your petitioners to use the said proceeds from the sale of the said three fourths of an acre in the building of a proper church house on the remainder of the said property;

And your petitioners will ever pray;

E.M. Cooper,  
W.H.H. Clark,  
Ira Baker,  
Trustees,

By Counsel,

[Signed]

Bullitt & Kelly,

Attorneys.



At a meeting of the Old Baptist Church, held at Oak Grove Church in the Crab Orchard, Lee County, Virginia, on the 1st day of June, 1907, the following resolution was on motion, unanimously adopted.

Whereas, the Church is the owner of an undivided interest in three and one-half (3-1/2) acres of land being the residue of the land conveyed to it and the Regular Baptist Church by Hiram W. Reese and Thomas G. Morris by deed dated the 30th day of October, 1877, which church property is known as "Oak Grove" and, whereas said property is more than is sufficient for its use; and, whereas said congregation desires to build it a church House on a part of said property, and for that purpose desires to sell a portion of said property. Now, therefore, be it resolved, that William H.H. Clark, E.M. Cooper, and Ira Baker, Trustees for said Old School Baptist Church be, and they are hereby authorized and empowered to sell and convey 3/4 of an acre interest in said property on the Northern end of said land adjoining the Public Road and also adjoining the Jessee Moore tract of land, at the rate of One Thousand (\$1000.00) Dollars per acre, and for that purpose is authorized to take such legal steps as may be necessary, and they are hereby authorized and directed to use the proceeds from the sale thereof in building a proper church house on the remainder of said property.

[Signed]

T.L. Page,  
Clerk.



CIRCUIT COURT OF LEE COUNTY, VIRGINIA.

Ex-Parte Petition of E.M. Cooper, William H.H. Clark and Ira Baker, Trustees, for the OLD SCHOOL BAPTIST CHURCH OF THE OAK GROVE PROPERTY.

O R D E R ;

This day came E.M. Cooper, W.H.H. Clark and Ira Baker, Trustees of the Old School Baptist Church of the Oak Grove Property, and filed their petition in vacation, praying that the Court enter an order authorizing them to sell a portion of the property owned by the said church in the Crab Orchard, in Lee County, Virginia, and more fully described in said petition; and further authorizing them to use the proceeds of the sale of the said property in building a proper church house on the remainder of the said property; and the Judge of the Court being satisfied, from the evidence produced before him, that it is the wish of the Congregation of the said Old School Baptist Church, that the said part of the said property should be sold and the proceeds used as before stated; it is, therefore, considered by the Court, and so ordered, that the said Trustees be and they are hereby authorized to lay off a part of the said property on the Northern end thereof, adjoining the Public Road, and, also adjoining the Jesse Moore tract of land, containing three fourths of an acre, and to sell and convey the same to D. E. Clarkston, upon the payment by her to them of the sum of Seven Hundred and Fifty Dollars (\$750.00); the said deed of conveyance to further provide, that if upon partition of the said land between the said Old School Baptist Church and the Pleasant Hill Regular Baptist Church, the said portion of the said land so conveyed to the said D. E. Clarkston should not be assigned to her, then she is <sup>to be</sup> entitled to have assigned to her enough land out of the said tract, quantity and quality considered, to equal the value of the said three fourths of an acre.



And the said Trustees are further authorized and directed to use the proceeds from the said sale in building a proper church house upon the remainder of the said property.

To the Clerk of the Circuit Court of Lee County.

Enter the above Order, November 2nd, 1907.

*[Signed]*

H. A. W. Skeen,

Judge.



[Endorsed]

Entered in C.A.B.  
#8, page 337



Clarkston Exhibit No 3.  
filed with answer of  
D. C. Clarkston



To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia:

The undersigned members of the congregation of the Old School Baptist Church, at Oak Grove Church, will respectfully represent and show unto your honor that they have been shown and had read to them a bill in Chancery, filed in the name of Mary Morris, Elizabeth J. Gates, Jane Huff, Elizabeth Daugherty, Cora R. Huff, Malinda L. Legg, Susan C. Morris, Martha Morris, J. H. Morris, B. F. Daugherty, and Sallie Daugherty, members of said congregation of the Old School Baptist Church as aforesaid, praying among other things that the Trustees of said Church be compelled to accept a proposition made to the congregation of said Church by the Keokee Coal & Coke Company, by which said Keokee Coal & Coke Company propose to become the owners of all the coal and minerals on the land mentioned in said bill, and in consideration of which, said Company proposes to erect on said land a church at a cost of not less than \$1500.00 for the congregation of said Old School Baptist Church and to convey with the said church when erected to said congregation or its Trustees, the surface of said land to be used for church purposes alone.

Your undersigned petitioner most earnestly protests against such course and state to your honor that they desire said property to be partitioned in accordance with the prayer of the bill which has been filed in your honors court by E. M. Cooper, Wm. H. H. Clark, and Ira Baker, Trustees of said Old School Baptist Church at Oak Grove Church. And in this connection they desire to state that said property is very valuable and that if put on the market it would perhaps bring \$3000.00 to \$5000.00 per acre, and your petitioners are not willing to give to the Keokee Coal & Coke Company this valuable property for the mere building of a church house on said property. Your petitioners file herewith and as a part hereof the petition or bill in Chancery filed by said Mary Morris and others, the members of said Congregation first above mentioned, and state to your honor that they have examined said



bill with great care and they in no way endorse, or agree to the statements therein made, but protest against them as being an unfair statement of the matters therein attempted to be stated.

Respectfully,

Sallie Daugherty  
B. F. Daugherty  
\_\_\_\_\_  
\_\_\_\_\_



Jas. K. P. Legg et al, Trustee .....Complainant.

Ads.

In Chancery.

E. M. Cooper et al, Trustee.....Defendant.

The joint plea of Jas. K. P. Legg, E. M. Bledsoe and William Barker, Trustees, to a bill of complaint exhibited against them in the Circuit Court for Lee County by E. M. Cooper and others, Trustees,

The said defendants by protest~~ation~~<sup>ation</sup> not confessing or acknowledging all or any part of the matters and things in the said bill of complaint contained to be true in manner and form as the same are therein set forth, for plea, nevertheless, to the said bill doth plead and aver that all persons interested in the subject matter of this suit, namely the lot or tract of land sought to be partitioned or sold under the said plaintiffs' bill, are not made parties defendant to the said bill, for the said defendants allege that by a certain deed dated the 11th day of January, 1909, the said defendants as trustees under ~~said~~ authority vested in them by virtue of an order of the Circuit Court for Lee County, executed and delivered to the Keokee Coal & Coke Company a deed of conveyance for all the interest of the church known as the Regular Baptist Church, which deed is upon record in the office of the clerk of the County of Lee. And by certain other deed dated the 28th day of January, 1909, said Keokee Coal and Coke Company conveyed a one-half undivided interest in the surface of the said tract of land to the Trustees of the Pleasant Hill Regular Baptist Church subject to certain conditions and provisions fully set forth in said deed.

And the said defendants further say that Hiram W. Reece, one of the original grantors of the property in question, claims a reversionary interest in a certain part of the said property, and by recent deed conveyed said reversionary interest to Robt. L. Pennington, as will fully appear from records of deeds of Lee County in the Clerk's office of the County clerk.



Wherefore the said defendants pray judgement whether they shall be compelled to make any further answer to the said bill, and pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

*R. J. Irvine &  
Lawrence J. Brock* p.d.



J. H. P. Legg, ita

and 3/4 Plea

E. M. Cooper ita

~~~~~

Filed in open Court
and leave there of, on
this the 15th day of
February, 1909.

H. C. D. Ewing,

Clerk.

State of Virginia, Lee County, to-wit:

To S. D. Ward, Constable of said County:-- You are hereby
commanded to summon Charles D. Bailey, if to be found in your
County, to appear before Squire Joslyn, ^{or some other Justice of said} ~~County~~ ^{County}, at the office of Duncan
& Gridleton in the town of Jonesville, Virginia, on the 13th day
of February, 1911, to give evidence on oath in a certain suit
pending in the Circuit Court of Lee County: wherein E. M. Cooper,
and others, are plaintiffs, and J. K. P. Legg, and others, are
defendants: wherein D. E. Clarkston has been made by order of
the court a party to said suit, on whose behalf you are summoned
to give your deposition in her behalf to be read in evidence
before the said court ~~in her behalf~~, and fail not under the
penalty of the law.

Given under my hand this the 11th day of February, 1911.

D. E. Clarkston

A Justice of the Peace for Lee County, Virginia.

Send this one to
C. W. Kelly,
Jonesville Va.
in the morning
here

resented this the
13th day of Feb 1911
by Dildine a new
copy of the written
mem to L. D. Bailey
at his Drilling house
and paying \$1.50
on his attendance
on said summons.

S. L. Ward.
C. & C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*J. K. P. Legg, E. M. Bledsoe
And J. W. Barker, Trustees of Pleasant Hill
Regular Baptist Church of Oak Grove Property*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the *2nd* Monday in *January*, 190*7*, to answer a bill in chancery exhibited against *them*

*by E. M. Casper, Wm. H. Clark and Ira Baker
Trustees of the Old School Baptist Church
of Oak Grove Property*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *31st*
day of *December*, 190*7*, and 1*23*-year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk

Executed Jan 4

E. M. Cooper, et al vs.
re.

VS

SUBPOENA
IN
CHANCERY

J. H. P. Legg et al, vs. re.

J. C. Neal

p. q.

To 2nd January Rules
Lee Circuit Court

1909

Executed on the 4th day of
January, 1909 by Lee
bearing true copies of
the within subpoena
to J. H. P. Legg and E. M.
W. Burgess
Hudson in Lee

E. S. Stapleton D. S. for
H. Y. Tucker
D. L. C.

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*J. H. P. Legg, E. M. Bledsoe
and J. W. Barker, Trustees of the Pleasant Hill Regular
Baptist Church of Oak Grove Property, The Keokuk Coal
& Coke Company, a corporation, R. R. Pennington, assignee
of Hiram H. Rice, and D. E. Clarkston*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on

the *1st* Monday in *April*, 190*9*, to answer a bill in chancery exhibited against *them*

*by E. M. Cooper, Wm. H. H. Clark and Ira
Baker, Trustees of the Old School Baptist
Church of Oak Grove Property.*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *19th*

day of *March*, 190*9*, and 1*33rd* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk

_____, Clerk

E. M. Cooper, et al, Trs.

VS

SUBPENA
IN
CHANCERY

J. K. P. Legg, et al, Trs.

et al,

J. C. Nork,

p. q.

To

First April

Rules

Lee Laurent

Court

1909.
Executed by Delivering
a Copy to D. C. Clarkston
this April 2d. 1909
G. V. Sage D.S.
for W. J. Tucker
S. L. C.

my Misses & ab-

to ~ Chouney

E. M. Cooper & ab
+

E. M. Cooper & ab
- 25 -

J. K. Phay & ab-
